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SECTION 1. FBI NATIONAL ACADEMY

1-1 GENERAL INFORMATION

EFFECTIVE: 07/23/90

1-1.1 Facts About the National Academy (NA)

Established on 7/29/35, the NA course is 11 weeks in length, and is conducted at the FBI Academy, Quantico, Virginia. The primary purpose of the NA is to afford appropriate and meaningful education and training to executives and instructors from municipal, county, and state law enforcement agencies. There are no charges for tuition, books, laundry, dry cleaning or equipment used. Meals and lodging are also furnished all attendees without cost. Travel expense between their place of assignment and the Academy will be paid for all domestic municipal, county, and state officers. Round-trip air coach fare is furnished. Incidental personal expenses must be handled by the officer or his/her department. The curriculum covers such areas as: criminal law, police management, behavioral science, forensic science, law enforcement communication, fitness/health, and a specialized instruction program in the law enforcement arts. Applications from law enforcement agencies of limited jurisdiction and law enforcement activity will not be considered in absence of complete justification. Where any doubt exists, each application will be reviewed. A healthy lifestyle is encouraged.

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1-1.2 Qualifications for Attendance

Applicant must:

- (1) Be of good moral character and reputation and outstanding in the law enforcement profession.
- (2) Be nominated by the head of his/her agency without regard to race, color, sex or national origin.
- (3) Be at least 25 years of age.
- (4) Be a regularly appointed full-time law enforcement officer with a minimum of five years of law enforcement experience, without significant interruption, who agrees to remain in law enforcement a minimum of three years after graduation.
- (5) Be in excellent health and physical condition, medically certified for strenuous physical exertion and regular participation in physical training. Certification must be made as a result of a physical examination by a medical doctor of the candidate's choice and at candidate's expense. Forms SF-88 and FD-300 must be submitted, reviewed and approved as a condition of acceptance prior to invitation. Candidate's weight must be within desirable limits for his/her height and frame or must score a body fat measurement of not more than 25.3 percent. All NA candidates are required to meet the weight standards by the deadline date established for each session. If a candidate is unable to meet the required deadline, he/she is to be removed from consideration until the weight is acceptable.
- (6) Have at least a high school diploma or high school equivalency certificate.

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1-1.3 Nominating Candidates

(1) When an NA application is received by a field office, a 1-Dead file should be prepared. The receipt of the application should be acknowledged by the field office. Any withdrawal of a candidate for the NA by the head of an agency should be acknowledged in writing by the SAC.

(2) The office indices must be checked, Special Agents who deal directly with the department consulted, and any other additional sources necessary must be checked for information concerning the law enforcement agency recommending representation at the NA. The communication to FBIHQ nominating the candidate must show that this check has been made. If there is any information in the office files or otherwise known by the office revealing any difficulty with the agency or unfavorably reporting upon the integrity and efficiency of the agency, this information must be set out in the communication to FBIHQ, even though it has been furnished previously.

(3) When applicant is to be considered for a specific NA class, SAC, ASAC, field supervisor or Special Agents directly involved in NA matters will personally, formally interview applicant. The interviewer should review application for completeness and clarify any ambiguities during the interview. Interview Form FD-319 must be completed.

(4) When the field office is ready to recommend a candidate for a specific session, the office will send to FBIHQ by FD-456 appropriate forms, including application, interview form, and fingerprints. UACB, the field office will institute the investigation with a 21-day deadline for submitting completed results, by summary electronic communication, to FBIHQ.

(5) NA investigations should be completed no later than 120 days prior to the beginning of the session for which a candidate is recommended and in accordance with instructions reflected under major topic 1-2.

(6) Office of origin will set forth leads to lead offices on Form FD-456. No additional communications should be sent to FBIHQ until the investigation is completed, discontinued, or unless some express reason exists.

(7) Results of investigation should be promptly reported to FBIHQ, Attention: National Academy Admissions Office - Quantico,

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| by|electronic communication|summary as described under secondary topic 1-2.3.

(8) Upon receipt of registration forms, Special Agent coordinator will ensure that applicant's course selection questionnaire is completed and returned as per instructions contained in the forms.

EFFECTIVE: 11/05/97

1-1.4 Invitation Policy Regarding Applicants (See Legal Attache Manual, Part I, 6-5.3)

(1) Upon review of applicant's completed investigative results, invitations to attend NA will be made by letter from FBIHQ. SAC and Agents assigned to SAC's office are not to promise applicant or his/her agency that he/she will attend a certain session of NA. SACs and Agents are to be extremely careful in relations with local authorities in order that no one can infer he/she will be attending next session.

(2) Upon receipt of a copy of letter of invitation, the SAC must cause an acceptance to be forwarded to FBIHQ without delay. If delay will occur or for some reason invitation will be declined, SAC shall notify FBIHQ immediately furnishing details as to situation. Because of the considerable disruption and confusion created as a result of a late cancellation, no standby candidate will be substituted for a primary candidate when the primary candidate is dropped from the program within (5) working days of reporting to Quantico.

(3) One week prior to the commencement of each NA session, the SAC must forward an|electronic communication|to the Bureau, Attention: Training Division, certifying that each of the prospective NA applicants scheduled to take firearms training is knowledgeable regarding FBI firearms range safety rules and has a reasonable proficiency with weapons used in our training. SAC will also certify that the applicant was advised that he/she is expected to attend all classes promptly and regularly during the NA session.

(4) Thirty days prior to a candidate reporting to the NA, field offices will certify that he/she meets the desirable weight or body fat standards. Those not meeting established standards should be



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rescheduled to a future session when they do meet the weight standards, and a standby candidate may be substituted to fill the vacancy. Should a field office send a candidate who is overweight, the candidate will be accepted into the program; however, the field office will be penalized by losing a slot for the next NA session.

EFFECTIVE: 11/05/97

1-1.5 Post Graduate Policy

(1) Graduates should be contacted by Agents within two weeks after graduation and by the SAC at the earliest practical opportunity.

(2) Advise FBIHQ of contacts by routing slip unless contacts provide information which would assist FBIHQ in improving NA program, in which case submit by electronic communication.

(3) Deleted

(4) Graduates to be invited to attend regular firearms training of Agents UACB.

(5) FBIHQ will add all NA graduates to a computerized mailing list.

(6) When information is received that an NA graduate moves out of a field office territory, his/her new residence should be verified. This pertains to NA graduates who are actively employed in law enforcement or are in retirement and eligible for continued membership in FBINA Associates. Upon verification, office of origin should forward NA graduate's file to field office covering his/her new residence. Office of origin should retain NA graduate's index card and make a notation on card that graduate has moved and his/her NA file has been sent to field office wherein he/she resides.

(7) Deleted

(8) SACs may designate or approve attendance of their Agent personnel at meetings and conferences of FBINA Associates when these events are held within the field office territory. It is expected that good judgment will be exercised in making such assignments, and SAC must coordinate travel to meetings and

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conferences held outside field office territory with and obtain approval from SAC of office covering territory to be visited. Spouses and families may accompany Bureau personnel to these meetings where no increase in costs to the government would result and there exist no other factors requiring disapproval. In this regard, an SAC may authorize on a case-by-case basis an Agent's spouse to travel in a Bureau automobile while the Agent is en route to and from a function in which the Agent has an official role, provided the Bureau vehicle is used exclusively as basic transportation to and from the FBI sanctioned function. The foremost consideration in granting such a request should be whether such travel would be considered to be in the best interest of the government. Among the factors to be considered are length of time of the function and distance to be traveled.  
| (See MIOG, Part II, 23-8.1; MAOP, Part I, 1-3.1; Part II, 1-2.1, 8-5.) |

EFFECTIVE: 11/05/97

| 1-1.6 | Deleted |

EFFECTIVE: 11/05/97

1-2 APPLICANT INVESTIGATIONS

EFFECTIVE: 01/22/90

1-2.1 Investigative Guidelines

(1) A thorough investigation must be made of all National Academy (NA) applicants, supervised by the SAC, to determine if the applicant is an outstanding police officer. NA applicant investigation must be conducted with same degree of thoroughness and penetrative analysis as investigation of Special Agent applicants.

(2) The applicant's date of birth must be verified. This may be done through review of education records, employment records or

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other appropriate official sources. Resolve any discrepancies in date of birth through appropriate Bureau of Vital Statistics records.

(3) It is not necessary to interview references unless information developed during other facets of investigation would dictate otherwise.

(4) Former and present law enforcement employments and ranks held should be checked thoroughly. Birth date, time in law enforcement and education may be verified through a review of the applicant's personnel file.

(5) The applicant's superiors and a sampling of his/her associates in law enforcement must be interviewed with a serious effort to determine the applicant's competency as a law enforcement officer and his/her potential for advancement. This aspect of the investigation will carry significant weight in determining a police officer's suitability for NA training.

(6) Credit and arrest records must be searched in locales of residence on the applicant for the five-year period preceding the initiation of the investigation. All credit checks will be processed by contractor personnel at FBIHQ. Authority to Release Information Form (FD-406) must be completed by and obtained from the applicant at the time of initial interview and forwarded to FBIHQ.

(7) Field office indices must be searched on the applicant and his/her law enforcement agency. Results must be specifically reported.

(8) Applicant's physical condition must be ascertained not only by having applicant submit to physical examination and having results reported on Standard Form 88 but also by interviewing acquaintances. If an applicant has recently undergone a physical examination which will not be more than one year old on his/her anticipated graduation day from the NA, this examination reported on forms SF-88 and FD-300 will be acceptable. The applicant will bear the full expense of the examination.

(9) The highest level of education the applicant has attained must be verified. This may be accomplished by determining from his/her appropriate official personnel file, his/her highest diploma, equivalency, or degree. If the file does not reflect this information, the applicant's educational level must be verified through the appropriate educational institution.

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(10) Periods of time not accounted for in the application form must be ascertained, investigated, and the details furnished to FBIHQ.

(11) If, during investigation of applicant, matters arise reporting unfavorably upon law enforcement agency by which applicant is employed, this information should be brought to FBIHQ's attention with specific reference to the NA applicant. Such matters include complaints charging civil rights violations by members of the department, charges of graft or corruption, or uncooperative attitude by executive head or other members of the agency.

(12) Allegations reporting unfavorably upon character or reputation of applicant must be completely resolved.

(13) When a candidate previously investigated has not been invited to attend for reasons not precluding future attendance, investigation must be brought up to date if more than six months old. If investigation is less than six months but more than 90 days old, make current indices, credit and arrest checks; and report results in summary airtel in which appointment is recommended. All updated credit checks will be processed by contractor personnel at FBIHQ.

(14) If all investigation proves favorable, letter of invitation will be sent from FBIHQ.

(15) These procedures place full responsibility on the field for insuring that all NA attendees meet the high standards required.

EFFECTIVE: 12/10/91

1-2.2 Investigation of Military Service Candidates

It is not necessary to conduct full investigations of NA applicants of U.S. Military Services. Office of origin will be the office covering applicant's present place of assignment. Restrict investigations of U.S. Military candidates to the following unless information is obtained indicating additional inquiry is desirable:

(1) Name check of applicant in field office indices.

(2) Submission of the applicant's fingerprints to FBIHQ for search through Criminal Justice Information Services Division

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records.

(3) Verification of applicant's birth, education and law enforcement experience through review of military personnel file. Comment on applicant's service record as appropriate, e.g., awards, decorations, courtmartials, nonjudicial punishment, etc. Appropriate military intelligence records must be checked.

(4) Interview of the applicant's immediate superior and if practical, one or two of his/her associates in his/her current post of assignment. Inquiries should also be made of established sources at his/her current post of assignment making certain there is no information known to them which would preclude acceptance of the applicant.

(5) Credit and criminal checks of applicant at all places of residence in the United States for the five-year period preceding the initiation of the investigation. All credit checks will be processed by contractor personnel at FBIHQ. A completed and signed FD-406 should be forwarded to FBIHQ.

(6) Interview of applicants by SAC, ASAC, field supervisors or Special Agents directly involved in NA matters, the same as other applicants.

(7) Submit results of physical examination on SF-88 and FD-300. If applicant has undergone a physical examination that will be less than one year old on the anticipated day of his/her graduation from the NA, a copy of that physical accompanied by a completed FD-300 will satisfy this requirement.

(8) Results of investigation should be reported in the same manner as for local candidates and as explained below.

EFFECTIVE: 07/14/95

1-2.3 Reporting Results of Investigations

EFFECTIVE: 12/10/91

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| 1-2.3.1 |Lead|Offices

Investigative results will be furnished to the office of origin by|electronic communication|summary. Unfavorable or questionable information will be set forth in detail. Copies should not be forwarded to FBIHQ.

EFFECTIVE: 11/05/97

1-2.3.2 Office of Origin

Upon completion of all investigation, will submit an |electronic communication|summary of all results. |Investigative|notes must be maintained in the 1-A|evidence envelope|in the case file.

EFFECTIVE: 11/05/97

| 1-2.3.3 |Electronic Communication|Summary

The|electronic communication|summary, in clear, concise, succinct language, should be sent: Attention: National Academy Admissions Office - Quantico, and should contain the following information under the headings indicated:

(1) Birth - Set forth date and place of birth and statement that birth data has been verified.

(2) Education - Verification of high school graduation or receipt of high school equivalency certificate and higher education of applicant, if applicable. If applicant has acquired a college degree from an accredited institution and this is verified, it will not be necessary to confirm his/her high school graduation.

(3) Law Enforcement Experience - Dates of law enforcement service and rank attained; recommendation of pertinent superiors and peers should be included. National Academy graduates in applicant's department or neighboring departments should be contacted. If these contacts are favorable, a statement to that effect will suffice.

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Briefly summarize his/her experience and potential.

(4) Deleted

(5) Record Checks and Supportive Data - Status of the applicant's credit should be determined. Credit checks will be processed by contractor personnel at FBIHQ. Field offices must ensure the various release forms (i.e., FD-406) utilized in applicant-type investigations are completed and forwarded to FBIHQ. Include a statement that arrest records are negative regarding the applicant, if such is the case. If arrest records are located within the five-year period preceding the investigation, FULL DETAILS MUST BE OBTAINED AND SET OUT ALONG WITH THE RECOMMENDATION OF THE SAC REGARDING THE SAME. Also report in this section the results of field office indices checks.

(6) Deleted

(7) Physical Condition - Physical Examination Form SF-88 and accompanying FD-300 should be submitted as enclosures to the electronic communication summary if not previously submitted. A serology test and an EKG are required for all applicants. Applicants must meet Bureau weight standards and be physically qualified based on physical examinations and interviews with acquaintances.

(8) Recommendation of SAC - SAC should indicate that all investigative results have been reviewed AND COMMENT ON APPLICANT'S OUTSTANDING CHARACTERISTICS AS WELL AS OBSERVATIONS AND RECOMMENDATIONS ON ANY ADVERSE INFORMATION.

(9) Direct Invitation To - Provide the name and address of the agency head or other individual to whom the invitation should be directed. Usually this is the same individual who nominated the applicant.

EFFECTIVE: 11/05/97

1-2.4 Character - FBI National Academy Applicant

EFFECTIVE: 12/10/91

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1-3 ADVANCED SPECIALIZED TRAINING FOR CRIMINAL JUSTICE  
PERSONNEL AT THE FBI ACADEMY (NON-FBI NATIONAL ACADEMY)

In addition to the FBI National Academy Program, the Training Division schedules on an annual basis selected short-term courses to address the technical, investigative and management needs of the local law enforcement community. Details regarding selection criteria and administrative requirements are contained in the Manual of Administrative Operations and Procedures, Part II, Section 8-4.

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SECTION 2. NEUTRALITY MATTERS

2-1 STATUTES

Title 18, USC, Sections 956 and 958-962; Title 22, USC,  
Sections 1934 and 401

EFFECTIVE: 01/31/78

2-1.1 Section 956. Conspiracy to Injure Property of Foreign  
Government

"(a) If two or more persons within the jurisdiction of the United States conspire to injure or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, or other public utility so situated, and if one or more such persons commits an act within the jurisdiction of the United States to effect the object of the conspiracy, each of the parties to the conspiracy shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

"(b) Any indictment or information under this section shall describe the specific property which it was the object of the conspiracy to injure or destroy."

EFFECTIVE: 01/31/78

2-1.2 Section 958. Commission to Serve Against Friendly Nation

"Any citizen of the United States who, within the jurisdiction thereof, accepts and exercises a commission to serve a foreign prince, state, colony, district, or people, in war, against any prince, state, colony, district, or people, with whom the United States is at peace, shall be fined not more than \$2,000 or imprisoned not more than three years, or both."

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EFFECTIVE: 01/31/78

2-1.3 Section 959. Enlistment in Foreign Service

"(a) Whoever, within the United States, enlists or enters himself, or hires or retains another to enlist or enter himself, or to go beyond the jurisdiction of the United States with intent to be enlisted or entered in the service of any foreign prince, state, colony, district, or people as a soldier or as a marine or seaman on board any vessel of war, letter of marque, or privateer, shall be fined not more than \$1,000 or imprisoned not more than three years, or both.

"(b) This section shall not apply to citizens or subjects of any country engaged in war with a country with which the United States is at war, unless such citizen or subject of such foreign country shall hire or solicit a citizen of the United States to enlist or go beyond the jurisdiction of the United States with intent to enlist or enter the service of a foreign country. Enlistments under this subsection shall be under regulations prescribed by the Secretary of the Army.

"(c) This section and sections 960 and 961 of this title shall not apply to any subject or citizen of any foreign prince, state, colony, district, or people who is transiently within the United States and enlists or enters himself on board any vessel of war, letter of marque, or privateer, which at the time of its arrival within the United States was fitted and equipped as such, or hires or retains another subject or citizen of the same foreign prince, state, colony, district, or people who is transiently within the United States to enlist or enter himself to serve such foreign prince, state, colony, district, or people on board such vessel of war, letter of marque, or privateer, if the United States shall then be at peace with such foreign prince, state, colony, district, or people."

EFFECTIVE: 01/31/78

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2-1.4 Section 960. Expedition Against Friendly Nation

"Whoever, within the United States, knowingly begins or sets on foot or provides or prepares a means for or furnishes the money for, or takes part in, any military or naval expedition or enterprise to be carried on from thence against the territory or dominion of any foreign prince or state, or of any colony, district, or people with whom the United States is at peace, shall be fined not more than \$3,000 or imprisoned not more than three years, or both."

EFFECTIVE: 01/31/78

2-1.5 Section 961. Strengthening Armed Vessel of Foreign Nation

"Whoever, within the United States, increases or augments the force of any ship of war, cruiser, or other armed vessel which, at the time of her arrival within the United States, was a ship of war, or cruiser, or armed vessel, in the service of any foreign prince or state, or of any colony, district, or people, or belonging to the subjects or citizens of any such prince or state, colony, district, or people, the same being at war with any foreign prince or state, or of any colony, district, or people, with whom the United States is at peace by adding to the number of the guns of such vessel, or by changing those on board of her for guns of a larger caliber, or by adding thereto any equipment solely applicable to war, shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

EFFECTIVE: 01/31/78

2-1.6 Section 962. Arming Vessel Against Friendly Nation

"Whoever, within the United States, furnishes, fits out, arms, or attempts to furnish, fit out or arm, any vessel, with intent that such vessel shall be employed in the service of any foreign prince, or state, or of any colony, district, or people, to cruise, or commit hostilities against the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people with whom the United States is at peace; or

"Whoever issues or delivers a commission within the United States for any vessel, to the intent that she may be so employed-

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"Shall be fined not more than \$10,000 or imprisoned not more than three years or both..."

EFFECTIVE: 01/31/78

2-1.7 Title 22, USC, Section 1934. Munitions Control

This statute commonly known as Munitions Control Act, and regulations issued thereunder provide all persons engaged in manufacture, importation, or exportation of arms, ammunition, or implements of war must register with Department of State and secure a license from State Department to import or export these items.

Maximum penalty, \$25,000 or two years, or both.

EFFECTIVE: 01/31/78

2-1.8 Title 22, USC, Section 401. Seizure Powers

(1) "(a) Whenever an attempt is made to export or ship from or take out of the United States any arms or munitions of war or other articles in violation of law, or whenever it is known or there shall be probable cause to believe that any arms or munitions of war or other articles are intended to be or are being or have been exported or removed from the United States in violation of law, the Secretary of the Treasury, or any person duly authorized for the purpose by the President, may seize and detain such arms or munitions of war or other articles and may seize and detain any vessel, vehicle, or aircraft containing the same or which has been or is being used in exporting or attempting to export such arms or munitions of war or other articles. All arms or munitions of war and other articles, vessels, vehicles, and aircraft seized pursuant to this subsection shall be forfeited..."

(2) Executive Order 10863 conferred seizure power authority upon the Attorney General, and Department of Justice Order 200-60 redelegated this authority to the Director of the FBI. Department of Justice Order 271-62, section 0.89, printed in the Federal Register 6-1-62, restated this redelegation of authority to the Director. By agreement with the Treasury Department, this authority is to be exercised by the FBI only in Neutrality cases.

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EFFECTIVE: 06/18/87

2-1.9 Purpose and Procedure of Seizures

(1) The Department has advised that the dominant purpose of seizure powers under Section 401 is to accomplish forfeiture of arms and munitions of war which have been the subject of attempted exportation in violation of law. The FBI may make seizures under Section 401 only in those instances during investigations of violation of Neutrality statutes in which it develops that arms will be illegally exported, the seizures must be made to prevent the illegal exportation, and arrests are not to be made. It is mandatory, obviously, that probable cause exists to believe that the material is about to be illegally exported. If arrests are to be made, seizures must be made incidental to lawful arrest or on basis of a search warrant and not under Section 401.

(2) Prior to making any seizure under Section 401, FBIHQ authority must be obtained wherever possible, using whatever means of communication warranted under the circumstances. SAC may authorize seizure under Section 401 only in those instances in which time is of essence and does not permit prior communication with FBIHQ.

(3) The FBI has been delegated authority to institute civil administrative forfeiture proceedings pursuant to Section 401. The Forfeiture and Abandoned Property manual contains the step-by-step procedure to be followed for seizures and civil forfeiture proceedings (judicial and administrative) conducted in conjunction with this violation.

EFFECTIVE: 06/18/87

2-2 ELEMENTS

EFFECTIVE: 06/18/87

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2-2.1 Section 956

Persons within the jurisdiction of the U.S. conspire to damage property in a foreign country and owned by a foreign government with which the U.S. is at peace and one or more of the conspirators commits an act within the jurisdiction of the U.S. to carry out the conspiracy.

EFFECTIVE: 06/18/87

2-2.2 Section 958

Citizen of U.S. within its jurisdiction accepts and exercises a commission to serve against any country with which U.S. is at peace.

EFFECTIVE: 07/18/86

2-2.3 Section 959

(1) Anyone within U.S. enlists to serve in foreign service, or

(2) Anyone within U.S. hires or retains another to enlist or enter himself/herself in foreign service, or

(3) Anyone within U.S. hires another to go beyond jurisdiction of U.S. with intent to be enlisted in foreign service.  
(Not necessary that war exist anywhere to constitute violation of this section.)

EFFECTIVE: 07/18/86

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2-2.4 Section 960

(1) Anyone within U.S. knowingly begins or sets on foot any military or naval expedition or enterprise to be carried on from the U.S. against a country with which U.S. is at peace.

(2) Anyone within U.S. knowingly provides or prepares a means for or furnishes money for or takes part in any military or naval expedition or enterprise to be carried on from the U.S. against a country with which U.S. is at peace.

EFFECTIVE: 07/18/86

2-2.5 Section 961

Anyone within U.S. increases or augments force of any ship of war, which at time of arrival in U.S. was ship of war belonging to country at war with country at peace with U.S.

EFFECTIVE: 07/18/86

2-2.6 Section 962

(1) Anyone within U.S. fits out or arms, or attempts to do so, any vessel to be employed by any country to commit hostilities against country with which U.S. is at peace.

(2) Anyone within U.S. issues or delivers commission for any vessel with the intent to be so employed.

EFFECTIVE: 07/18/86

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2-2.7 Title 22, USC, Section 1934

(1) Requires all persons engaged in manufacture, importation, or exportation of arms, ammunition, or implements of war to register with Department of State and secure license from State Department for exportation or importation of these items.

(2) Violations of this section under investigative jurisdiction of U.S. Customs Service. Under normal circumstances alleged violations should be referred directly by field office receiving complaint to local office of U.S. Customs Service, except under circumstance outlined in (2-3).

EFFECTIVE: 07/18/86

2-3 POLICY

(1) Neutrality Matters are investigated by the FBI as criminal violations. They frequently have international ramifications. Since such violations have also become increasingly terroristic in essence, the Department of Justice, Department of State, National Security Council, Secret Service, as well as various other interested Government agencies, have expressed their continuing interest in such matters. FBIHQ must, therefore, be promptly notified of all alleged violations of Title 18, USC, Section 956 and Sections 958-962.

(2) Interview the complainant thoroughly to obtain full facts, identities of parties concerned, citizenship, nationality, and other available pertinent information. Thereafter, promptly report to FBIHQ in form of letterhead memorandum all facts developed so that same may be relayed to the Criminal Division of the Department for its review. Do not conduct any additional investigation until FBIHQ, at the request of the Criminal Division, so instructs.

(3) Duplication of effort has been experienced in the investigation of violations of Neutrality statutes under FBI jurisdiction which also involve violations of the Munitions Control Act (Title 22, USC, Section 1934). That Act is under the primary investigative jurisdiction of the U.S. Customs Service, Department of the Treasury.



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EFFECTIVE: 07/18/86

2-3.1 Jurisdictional Agreement with Treasury Department

In order to eliminate such duplication, the following agreement with the Treasury Department was entered into in 1955:

(1) If Customs Service receives an allegation of a violation of the Munitions Control Act (Title 22, USC, Section 1934), it will investigate all matters arising therefrom, even though they subsequently involve statutes relating to Neutrality violations within FBI jurisdiction. If, however, Customs determines in the course of its investigation facts which involve a conspiracy of major proportions against a foreign government, Customs may request the FBI to assume investigation. Field offices must not accept for investigation these referrals from the local office of Customs. In that instance inform Customs it should refer the matter to FBIHQ through its Headquarters in Washington, D. C. Advise FBIHQ immediately of such requests.

(2) If we receive complaint alleging possible violation of the Munitions Control Act (Title 22, USC, Section 1934), the complaint should be referred by the field office receiving it to the local office of U. S. Customs Service for appropriate action. Do not conduct any investigation.

(3) If we receive an allegation of violation of Neutrality laws under FBI jurisdiction (Title 18, USC, Sections 958-962, inclusive), we will investigate all phases including violations of the Munitions Control Act under Customs jurisdiction which may arise therefrom.

(4) If Customs receives an allegation of violation of Neutrality laws under FBI jurisdiction (Title 18, USC, Sections 958-962, inclusive), it will refer such allegations to FBI locally for any action warranted and Customs Service will not conduct any investigation.

(5) In all of the above instances, communications containing results of investigation will be exchanged by the FBI and the U. S. Customs Service to keep them completely informed. Appropriate liaison must be maintained by FBI field office and local offices of U.S. Customs Service.

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EFFECTIVE: 01/31/78

2-4 CHARACTER - NEUTRALITY MATTERS - (Identify Country)

EFFECTIVE: 01/31/78

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SECTION 3. OVERTHROW OR DESTRUCTION OF GOVERNMENT

3-1 STATUTE

Title 18, USC, Section 2385, proscribes advocacy of overthrowing or destruction of the Government of the United States, or government of any State, Territory, District or Possession thereof, or government of any political subdivision therein by force or violence.

EFFECTIVE: 01/31/78

3-2 INSTRUCTIONS

You are referred to Section 100, Part I, MIOG, because advocating the overthrow or destruction of Government has now been incorporated in that section.

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SECTION 4. FIREARMS ACTS

4-1 STATUTES

- (1) Title 18, USC, Sections 921-930
- (2) Deleted
- (3) Title 26, USC, Sections 5801-5872

EFFECTIVE: 06/26/91

4-1.1 Title 18, Sections 921-930  
Gun Control Act of 1968 or  
State Firearms Control Assistance Act

The Gun Control Act principally (1) prohibits the shipment, transfer or receipt of firearms or ammunition in interstate or foreign commerce to or by nonfederally licensed persons; (2) licenses manufacturers, importers and collectors of, and dealers and pawnbrokers, in, firearms and ammunition; (3) regulates imports through a permit system; (4) restricts the use of certain ammunition; (5) prohibits the possession of firearms and dangerous weapons in federal facilities; (6) provides for an additional five-year term of imprisonment for one who uses or carries a firearm during a violent or drug trafficking crime (see MIOG, Part I, 281-2.1.18).

EFFECTIVE: 05/10/96

4-1.2 Deleted

EFFECTIVE: 06/26/91

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4-1.3 Title 26, Sections 5801-5872 National Firearms Act

This act imposes a tax and registration on making or transfer of all fully automatic weapons, sawed-off rifles and shotguns, certain firearms oddities and destructive devices.

EFFECTIVE: 06/26/91

4-2 POLICY

The FBI has only a secondary jurisdiction over the enforcement of the National Firearms Act, and the State Firearms Control Assistance Act. Primary investigative jurisdiction rests in the U.S. Treasury Department and has been delegated by the Secretary of the Treasury to the Bureau of Alcohol, Tobacco and Firearms. The Internal Revenue Service still has jurisdiction over the collection of taxes imposed by these statutes and issuing the transfer orders as provided by the National Firearms Act. The Bureau of Alcohol, Tobacco and Firearms enforces the criminal violations. Therefore, unless a violation of the National Firearms Act or the State Firearms Control Assistance Act grows out of a violation within the FBI's primary investigative jurisdiction, no investigation should be conducted and any complaint received should be referred to the Bureau of Alcohol, Tobacco and Firearms. Pertinent information concerning convictions obtained by the FBI under these acts should be furnished to the nearest regional office of the Bureau of Alcohol, Tobacco and Firearms. This may be furnished in a form of a short dissemination memorandum.

EFFECTIVE: 06/26/91

4-3 INVESTIGATIVE PROCEDURE

(1) Active investigation should be conducted by the FBI in National Firearms Act or State Firearms Control Assistance Act violations when these violations directly relate to any investigation over which the FBI has primary investigative jurisdiction. This will include, but not be limited to, FBI investigations of domestic security/terrorism matters.

(2) Every Agent should immediately make certain that the firearm in the possession of the subject or alleged to have been

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transported in interstate or foreign commerce is a weapon meeting the definition of a firearm by the National Firearms Act or the State Firearms Control Assistance Act.

(3) When necessary to trace firearms that are covered by the National Firearms Act Amendment of 1968, which includes sawed-off shotguns, machine guns, shotgun pistols, bazookas, automatic weapons, odd noncommercial weapons, and explosive and incendiary devices, registered with the Bureau of Alcohol, Tobacco and Firearms (ATF) and to obtain documentary evidence of nonregistration of particular weapons or to determine if a subject or suspect has registered weapons other than those being traced, requests should be made through the appropriate district office of ATF. Furnish the type of firearms or explosive and incendiary device, including manufacturer, model, caliber or gauge, barrel length, overall length, serial number, and name and address of interested U.S. Attorney (USA). If certification is needed for court proceeding, this will be furnished directly to the interested USA by ATF.

(4) To trace all regular and sporting guns during normal business hours, the interested FBI field office should call directly to ATF Headquarters and furnish as much of the following information as available: priority of request (urgent, expedite, routine), requesting agency, location and telephone number, date, Special Agent's name, manufacturer, caliber or gauge, magazine or cylinder capacity, barrel length, finish, serial number, country of origin, any other identifying marks, and reason for trace. ATF 24-hour-a-day telephone numbers for receiving requests is [REDACTED] 62. If an emergency exists after business hours, ATF Headquarters Command Center, which operates 24 hours a day, will initiate traces. Command Center FTS number is [REDACTED]

(5) If ammunition is being considered, the particular ammunition under investigation should be carefully described to make certain it meets the requirements of the ammunition section of the State Firearms Control Assistance Act.

(6) Where the basis of prosecution is one of the provisions of the State Firearms Control Assistance Act requiring proof of a prior conviction of or an indictment for a crime punishable by imprisonment for a term exceeding one year, such a crime may be either a state or a Federal offense and in either instance the USA should be consulted as to the proper method of introducing evidence of the prior state or Federal conviction.

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EFFECTIVE: 06/26/91

4-4 CHARACTER

National Firearms Act or State Firearms Control Assistance  
Act, depending upon the type of violation being investigated.

EFFECTIVE: 06/26/91

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SECTION 5. INCOME TAX

5-1 INCOME TAX

The Internal Revenue Service, under the direction of the Commissioner, has general supervision over the determination, assessment, and collection of all internal revenue taxes. Violations of the Federal income tax laws which are reported to FBIHQ are forwarded directly to the Commissioner of Internal Revenue Service, Washington, D. C. Similar information furnished to field offices should be forwarded to the nearest district director of Internal Revenue Service in the field.

EFFECTIVE: 01/31/78



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SECTION 6. INTERSTATE TRANSPORTATION OF STRIKEBREAKERS

6-1 STATUTE

Title 18, USC, Section 1231.

EFFECTIVE: 10/18/88

6-1.1 Elements

- (1) Subject, who is not operating as common carrier:
  - (a) Willfully transports any person who is employed or is to be employed, or
  - (b) Knowingly travels himself/herself
  - (c) In interstate or foreign commerce
- (2) For the purpose of obstructing or interfering by force or threats with either:
  - (a) Peaceful picketing by employees during any labor controversy affecting wages, hours, or conditions of labor, or
  - (b) Exercise by employees of any of rights of self-organization or collective bargaining.

EFFECTIVE: 10/18/88

6-2 POLICY

Upon receipt of complaint of information indicating a possible violation, obtain opinion of USA as to whether there is sufficient indication therein of a violation to justify investigation. Advise FBIHQ in the event complaint or information concerns an extremely prominent or controversial figure, or if the circumstances dictate a need to do so.

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EFFECTIVE: 10/18/88

6-3 REPORTING PROCEDURES

(1) Advise FBIHQ by airtel within 60 days setting forth the facts of the complaint and a succinct summary of the preliminary investigation conducted.

(2) A closing airtel should be submitted to FBIHQ restating the predication for opening the investigation, summarizing the investigative findings and detailing the disposition of the investigation.

EFFECTIVE: 10/18/88

6-4 INVESTIGATIVE PROCEDURES

In conducting logical investigation:

(1) Establish identity, not only of actual employer who is having labor difficulties and who pays wages of strikebreakers who are sent to the employer, but also of all persons who transported or caused strikebreakers to be transported to employer, such as employment or detective agency operators.

(2) Obtain details of all overt acts by those transported after arrival at destination, including date of arrival, how soon thereafter overt acts took place and what other activities intervened.

(3) Obtain criminal and employment records of those transported as evidence bearing upon whether they were employed as bona fide and qualified workers rather than as strikebreakers.

(4) Establish:

(a) Existence of labor controversy and peaceful picketing, or other activities in connection with self-organization or collective bargaining

(b) How these activities were interfered with by strikebreakers and extent of interference. Consider interviews of union officials and examination of union records regarding this.

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(5) In cases involving interference with picketing, determine whether it was peaceful. Consider interviews of employers, workers who continued to work and crossed picket lines for this purpose, police officers assigned to maintain order on picket line, and check of police records.

EFFECTIVE: 10/18/88

||6-5| PENALTIES

Not more than \$5,000 fine and/or not more than two years' imprisonment.

EFFECTIVE: 02/08/80

||6-6| CHARACTER - INTERSTATE TRANSPORTATION OF STRIKEBREAKERS

EFFECTIVE: 02/08/80

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SECTION 7. |KIDNAPPING|

7-1 STATUTES

| Title 18, USC, Sections |1201, 1202 and 1204. |

EFFECTIVE: 11/09/94

7-1.1 Section 1201. Kidnapping (See MIOG, Part I, 7-1.3, 89-2.2(8).)

"(a) Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person, except in the case of a minor by the parent thereof, when --

"(1) the person is willfully transported in interstate or foreign commerce;

"(2) any such act against the person is done within the special maritime and territorial jurisdiction of the United States;

"(3) any such act against the person is done within the special aircraft jurisdiction of the United States as defined in ||section 46501 of title 49;|

"(4) the person is a foreign official, an internationally protected person, or an official guest as those terms are defined in section 1116(b) of this title, or

"(5) the person is among those officers and employees designated in Section 1114 of this title and any such act against the person is done while the person is engaged in, or on account of, the performance of official duties,

"shall be punished by imprisonment for any term of years or for life."

"(b) With respect to subsection (a)(1), above, the failure to release the victim within 24 hours after he shall have been

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unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted, or carried away shall create a rebuttable presumption that such person has been transported in interstate or foreign commerce.

"(c) If two or more persons conspire to violate this section and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life.

"(d) Whoever attempts to violate subsection (a) (4) or (a) (5) shall be punished by imprisonment for not more than twenty years.

"(e) If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 46501(2) of title 49.

"(f) In the course of enforcement of subsection (a) (4) and any other sections prohibiting a conspiracy or attempt to violate subsection (a) (4), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

"(g) Special rule for certain offenses involving children.

"(1) To whom applicable. -If-

"(A) the victim of the offense under this section has not attained the age of eighteen years; and

"(B) the offender-

"(i) has attained such age; and

"(ii) is not-

"(I) a parent;

"(II) a grandparent;

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"(III) a brother;

"(IV) a sister;

"(V) an aunt;

"(VI) an uncle; or

"(VII) an individual having legal  
custody of the victim;

"the sentence under this section for such offense shall be  
subject to paragraph (2) of this subsection."

"(2) Guidelines.-The United States Sentencing  
Commission is directed to amend the existing guidelines for the  
offense of 'kidnapping, abduction, or unlawful restraint,' by  
including the following additional specific offense  
characteristics:..."

"(h) As used in this section, the term 'parent' does not  
include a person whose parental rights with respect to the victim of  
an offense under this section have been terminated by a final court  
order."

EFFECTIVE: 12/23/96

7-1.2 Section 1202. Ransom Money

"Whoever receives, possesses, or disposes of any money or  
other property, or any portion thereof, which has at any time been  
delivered as ransom or reward in connection with a violation of  
section 1201 of this title, knowing the same to be money or property  
which has been at any time delivered as such ransom or reward, shall  
be fined not more than \$10,000 or imprisoned not more than ten years,  
or both."

EFFECTIVE: 07/11/85

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| 7-1.3 | Deleted |

EFFECTIVE: 12/23/96

| 7-1.4 Section 1204. International Parental Kidnaping Crime Act

"(a) Whoever removes a child from the United States or retains a child (who had been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title or imprisoned not more than three years, or both.

"(b) As used in this section---

"(1) the term 'child' means a person who has not attained the age of 16 years; and

"(2) the term 'parental rights,' with respect to a child, means the right to physical custody of the child---

"(A) whether joint or sole (and includes visiting rights); and

"(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

"(c) It shall be an affirmative defense under this section that---

"(1) the defendant acted within the provisions of a valid court order granting the defendant legal custody or visitation rights and that order was obtained pursuant to the Uniform Child Custody Jurisdiction Act and was in effect at the time of the offense;

"(2) the defendant was fleeing an incidence or pattern of domestic violence;

"(3) the defendant had physical custody of the child pursuant to a court order granting legal custody or

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visitation rights and failed to return the child as a result of circumstances beyond the defendant's control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible.

"(d) This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980."

EFFECTIVE: 11/09/94

7-1.4.1 Reference in the text of Title 18, U.S. Code, Section 1204

Sense of the Congress regarding Use of Procedures Under the Hague Convention - "It is the sense of the Congress that, inasmuch as use of the procedures under the Hague Convention on the Civil Aspects of International Parental Child Abduction has resulted in the return of many children, those procedures, in circumstances in which they are applicable, should be the option of first choice for a parent who seeks the return of a child who has been removed from the parent."

EFFECTIVE: 11/09/94

7-1.4.2 Hague Convention Signatories

(1) The United States signed the Convention in 1988 and implemented federal legislation under the International Child Abduction Remedies Act (Title 42, USC, 11601, 1988).

(2) At present, the Convention is in force in 37 countries which include: Argentina, Australia, Austria, the Bahamas, Belize, Bosnia-Herzegovina, Burkina Faso, Canada, Chile, Croatia (formerly Yugoslavia), Denmark, Ecuador, Finland, France, Germany, Greece, Honduras, Hungary, Ireland, Israel, Luxembourg, Macedonia, Mauritius, Mexico, Monaco, Netherlands, New Zealand, Norway, Panama,



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Poland, Portugal, Romania, Spain, Sweden, Switzerland, the United Kingdom, and the United States.

EFFECTIVE: 11/09/94

7-1.4.3 Comments and Clarifications regarding the Hague Convention on the Civil Aspects of International Parental Child Abduction

Hague Convention Remedies

(1) The Hague Convention is an agreement among its signatories that, subject to certain limited exceptions and conditions, a child who is habitually resident in one country that is a party to the Convention and who is removed to or retained in another country that is a party to the Convention in breach of the left-behind parent's custody rights shall be promptly returned to the country of habitual residence. This creates a treaty obligation to return an abducted child under 16 years of age if application is made within one year from the date of the wrongful removal or retention.

(2) After one year, the court is still obligated to order the child returned unless the person resisting return demonstrates that the child is settled in the new environment. A court may refuse to order a child returned if there is a grave risk that the child would be exposed to physical or psychological harm or otherwise placed in an intolerable situation in his or her country of habitual residence. A court may also decline to return the child if the child objects to being returned and has reached an age and degree of maturity at which the court can take account of the child's views. Finally, the return of the child may be refused if the return would violate the fundamental principles of human rights and freedoms of the country where the child is being retained.

(3) Hague Convention remedies should be sought as soon as possible after an abduction or wrongful retention has taken place. In order to apply for the return of a child a parent must exercise a "right of custody" which includes "rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence." Each country that is a party to the Convention has designated a Central Authority to carry out specialized duties under the Convention. An application may be submitted either

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to the U.S. Central Authority, (CCS) or directly to the Central Authority where the child is being held.

(4) Congress, in enacting this statute expressed the intent that nothing in the new IPKCA should be construed as superseding the "1980 Hague Convention on the Civil Aspects of International Child Abduction," and that the Hague Convention civil remedies are the procedures of choice in international parental kidnap matters.

EFFECTIVE: 11/09/94

7-1.4.4 Preliminary DOJ Policy on Reported Violations of the IPKCA

(1) The Department of Justice (DOJ) has stated that the Hague Convention, where applicable, should be the option of first choice for a parent who seeks the return of an abducted child from an extraterritorial location. This policy is based on the success of the Hague Convention and the belief that the existence of pending criminal charges against the abducting parent may adversely impact the willingness of foreign courts to order the return of the child.

(2) Even in situations where the abducted child is taken to a non-Hague Convention country, coordination through the Departments of Justice and State may provide a means to determine the child's welfare and whereabouts and effect the return of the abducted child.

(3) Based on the above, prior approval must be obtained by the local United States Attorney's office from the Criminal Division, DOJ, before the initiation of a prosecutive action (i.e., application for arrest warrant) to enforce the IPKCA.

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7-2 VENUE

(1) Venue lies in any district from, through or into which the defendant transported the kidnaped person in interstate commerce. Generally, the field office covering the place of abduction is considered office of origin (OO).

(2) If a Federal officer or employee is abducted outside the jurisdiction of any particular state or district, venue shall be in the district in which the offender or any one of two or more joint offenders is arrested or is first brought. When this occurs, the OO will be the field office covering the judicial district where prosecution is pursued.

(3) If such offender or offenders are not so arrested or brought into any district, an indictment for kidnaping may be filed in the district of the last known residence of the offender(s) or if no such residence is known, the indictment may be filed in the District of Columbia. Again, the OO would be the office where the indictment is filed.

EFFECTIVE: 07/11/85

7-3 DEFINITIONS

(1) The term "United States" is defined in Title 18, USC, Section 5.

(2) The term "special maritime and territorial jurisdiction of the United States" is defined in Title 18, USC, Section 7. (See MIOG, Part II, 1-1.4.)

(3) The term "special aircraft jurisdiction of the United States" is defined in Title 49, USC, Section 46501. (See MIOG, Part I, 164-3.)

(4) The term "parent" in Section 1201, does not include a person whose "parental rights" have been permanently terminated by a final court order. The Criminal Division, Department of Justice, advised that the term "parental rights" is generally defined in Title 18, USC, Section 1204, and the term "final court order" applies to the various procedural findings made by a state court.

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EFFECTIVE: 12/23/96

7-4 COMMENTS AND CLARIFICATIONS REGARDING THE FEDERAL  
KIDNAPING STATUTE

EFFECTIVE: 07/11/85

7-4.1 Instituting Investigation

(1) Every report of a violation wherein circumstances indicate the person has or possibly has been unlawfully seized, confined, inveigled, decoyed, kidnaped, abducted, or carried away, though not accompanied by a demand for ransom, reward or otherwise, is to be afforded an immediate preliminary inquiry to determine if an investigation under the Federal Kidnaping Statute is warranted. There must be an evaluation of all the evidence, circumstances and information to determine whether the sum total indicates that a person may have been unlawfully seized, etc.

(2) All Special Agents should fully understand that all elements of the Federal Kidnaping Statute need not be present in order to institute a preliminary inquiry.

(3) In instances when a Federal officer or employee designated in Title 18, USC, Section 1114, is abducted while the person is engaged in, or on account of, the performance of his or her official duties, a kidnaping investigation should be immediately instituted. It should be noted that the person kidnaped need not be transported in interstate or foreign commerce in order to meet the elements of Subsection (a) (5) of Title 18, USC, Section 1201.

EFFECTIVE: 07/11/85

7-4.2 The Terms, "Seized," "Confined," "Inveigled," "Decoyed,"  
"Kidnaped," "Abducted," and "Carried Away"

For the purposes of this section, the mention of one or more of the above terms includes all of the above terms through inference.

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EFFECTIVE: 07/11/85

7-4.3 The Clause "holds for ransom or reward or otherwise"

(1) Kidnapings are committed for reasons other than just ransom or reward. Among the many motivations for a kidnaping are sexual assault, abuse or exploitation; child stealing; romance; custodial or domestic disputes; religious or cult considerations; deprogramming; political considerations; narcotic involvements; retribution; and transportation in connection with other crimes. These additional motivations should be considered within the understanding of the term "otherwise."

(2) Simply, the kidnaping must be with intent to secure some benefit for the kidnaper.

EFFECTIVE: 11/18/83

7-4.4 24-Hour Presumptive Clause

(1) All Special Agents should be crystal clear in their understanding concerning what the 24-hour presumptive clause means and what it does not mean. The clause does not create a presumption of kidnaping, but only a presumption of interstate transportation after 24 hours in cases in which evidence exists that the victim has been unlawfully seized, confined, inveigled, decoyed, kidnaped, abducted or carried away.

(2) The fact that the law creates a rebuttable presumption of interstate transportation after 24 hours in cases where there is evidence of an abduction makes it obvious that, in order to make a sound determination, an immediate preliminary inquiry should be initiated (refer to 7-4.1). There will be instances, of course, where a clear-cut abduction exists and it is necessary to immediately institute an investigation under the Federal Kidnaping Statute without waiting for the lapse of 24 hours.

EFFECTIVE: 11/18/83

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7-4.5 Mysterious Disappearance of a Minor of Tender Years

(1) The mysterious disappearance of a minor, especially a minor of tender years, under circumstances which suggest involuntariness, abduction, etc., is of special concern and should receive an immediate FBI response. A minor is defined under federal law as any individual less than 18 years of age. A "minor/child of tender years," is generally defined as less than 8 years of age. This age range is used because children of this age group generally have not established independence from parental control, and generally do not have the survival skills necessary to protect themselves from physical abuse and exploitation.

(2) Historically, minors of tender years mysteriously disappear with no indicia of abduction. These disappearances occur while at their residences, while playing in their neighborhoods or at playgrounds, while on the way to and from school and at school, and while shopping with relatives or performing shopping errands for relatives. (See (5) below.)

(3) In many cases, these minors of tender years are later found to have been the victims of foul play or are never again seen.

(4) In these cases, considerations for instituting a preliminary inquiry should transcend indicia of abduction. Considerations should include the results of searches by local authorities, reports of suspicious persons and events, the child's past behavioral patterns, the child's capability to wander or run away from home and the circumstances surrounding the mysterious disappearance. (See (5) below.)

(5) For example, in the case of a three-month-old child mysteriously disappearing from a crib or shopping cart, or a seven year old mysteriously disappearing under circumstances listed in 7-4.5(2), and after exploring those considerations listed in 7-4.5(4), it may become necessary to institute a preliminary kidnaping inquiry based upon a logical inference of abduction.

(6) Preliminary inquiries instituted in these matters should be closely coordinated with the USA at the very onset inasmuch as a subsequent opinion regarding Bureau jurisdiction under the Federal Kidnaping Statute is likely to be sought. Field offices should remain alert to the fact that FBI participation in these cases may also be offered or supported through the use of the Domestic Police Cooperation Investigation (62D classification), the National Center for the Analysis of Violent Crime (252 classification), FBI

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forensic and Laboratory support, and other FBI classification and investigative resources.

EFFECTIVE: 11/09/94

7-4.6 Kidnaping of an Infant - Nontraditional Abduction

(1) As in the cases involving the mysterious disappearances of minors of tender years, abductions of an infant are usually not carried out with the usual motives of ransom, profit, sexual interaction, custody disputes, etc. The CID, FBIHQ, and the National Center for the Analysis of Violent Crime have closely studied infant abductions and have formulated a series of logical investigative steps.

(2) The following investigative steps are being furnished to assist field offices that institute kidnaping investigations wherein the victim is an infant. These suggested procedures are not all inclusive nor should they be construed as mandatory. They are being furnished to supplement the experience and knowledge of the case Agent.

(a) Determine if the motivation for the abduction is traditional (i.e., ransom, sexual exploitation) or if it appears to be a nontraditionally motivated abduction (the subject is a person who wants a child to have as his/her own).

(b) If it is a nontraditionally motivated abduction, conduct a thorough crime scene search and neighborhood investigation. This type of abduction frequently occurs in hospitals and the perpetrator may well have visited the scene prior to committing the abduction, i.e., asking questions about hospital schedules, procedures, etc.

(c) If the abduction occurred at a hospital, review the records of that hospital and nearby hospitals for recent infant deaths, miscarriages, and hysterectomies.

1. If the crime occurred at some location other than a hospital, hospitals in the vicinity of the scene of the abduction should be checked as outlined above.

2. It is suggested that these hospital checks

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go back two years in time.

(d)

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(e) Be alert to unwitnessed home or early births when the woman or her partner is out of town at the time of birth.

(f) The strategy that has proven most effective in these cases is the cooperative involvement of the media. In this regard, it is imperative that the law enforcement agencies, as well as any other entities involved, including the victim's family/physician, speak with "one voice." There should be one and only one source of information for the media. If the wrong information is aired, the potential exists that the kidnaper will kill or "discard" the victim.

(3) The Behavioral Science Investigation Support Unit (BSISU) should be consulted prior to the release of any information to the media. BSISU will assist the field in conducting a coordinated media campaign.

Factors considered by the BSISU and the field office will be:

(a) Who is to address the media (family member, FBI, police, etc.)

(b) How much information should be released?

(c) Degree of family involvement

(d) What information should be held back so that media interest can be maintained?

(e) What language/terminology should be used?

(f) Minimization of the gravity of the act. This is done in an attempt to elicit information from the family and friends of the subject. This is essential; as in the majority of cases, the abductor does not voluntarily return the victim.

(4) In examining 30 infant abductions the following generalities were drawn:

(a) The perpetrator in each instance was a female,



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except in one case where the subject was a homosexual.

(b) The ages of the subjects cluster in two groups: 16 to 21 years and 32 to 42 years. These groups approximate the beginning and end of childbearing years.

(c) The older subject may have a significantly older or younger male partner.

(d) The abduction is intraracial.

(e) Prior to the commission of the crime, the subjects displayed an excessive interest in other people's children.

(f) The female subjects felt that in order to maintain an existing relationship with their male partner, they must provide a child and further that they must "bear" a child. As a result, a significant number of female subjects feigned pregnancy. As the feigned pregnancy comes to term the subjects become desperate and need to produce a baby. It is at this point that the abduction occurs with the female subject claiming the victim as her new baby.

(g) In those instances where the subjects feigned a pregnancy, their male partners appeared to be very gullible and believed the victims were their own children.

(h) The use of a ruse by the subjects is common. In hospital abductions the subjects impersonated a nurse or hospital employee. When the abductions took place at a residence, the subjects would pretend to be seeking employment or asked to use the phone, etc. Although the subject's motivation in these cases is to obtain a child, Agents should treat them with caution as they have been known to resort to violence.

(5) Questions regarding nontraditionally motivated infant abductions should be directed to BSISU and CID.

EFFECTIVE: 02/20/90

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7-4.7 Parental Kidnapping of His/Her Own Minor (See MIOG, Part I, 88-7.1.)

(1) As specifically set forth in Title 18, USC, Section 1201 (a), a parent cannot be prosecuted under the federal Kidnapping Statute for kidnapping his/her own minor. However, on 12/2/93, the International Parental Kidnaping Crime Act of 1993 was enacted into law; this legislation created a new section under Title 18, USC, Section 1204, which makes the kidnapping or abduction of a minor by a natural parent accompanied by removal or retention of the child outside the United States a federal violation.

(2) Section 1201(h) defines a "parent" and specifically EXCLUDES a person whose parental rights have been permanently terminated by a final court order. Reports of parental abductions wherein the abductor is an individual whose parental rights have been legally terminated should be promptly discussed with the United States Attorney, to determine if federal prosecution is warranted under Section 1201.

(3) In a custodial or domestic dispute where it is a known fact that one parent has taken his/her own minor against the wishes of the other parent, and the child remains within the United States, no kidnapping investigation should be initiated. However, upon receipt of such a complaint; reference should be made to Part I, Section 88, of this manual entitled "Unlawful Flight to Avoid Prosecution, Custody, Confinement and Giving Testimony," wherein procedures are set forth for unlawful flight to avoid prosecution assistance in interstate parental kidnapping cases.

(4) Instances of parental kidnap/abduction with the intent to deprive one parent of their parental rights and accompanied by removal and/or retention outside the United States should be addressed under Title 18, USC, Section 1204, and a kidnap investigation or preliminary inquiry initiated.

EFFECTIVE: 05/25/95

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||7-4.8| Kidnaping of a Minor by a Relative Other Than a Natural Parent

The abduction of a minor by a relative other than a natural parent may constitute a violation of the Federal Kidnaping Statute and necessitates an immediate preliminary inquiry.

EFFECTIVE: 02/20/90

||7-4.9| Kidnaping by a Religious Cult

(1) An immediate preliminary inquiry is to be instituted regarding an allegation of a kidnaping or an unlawful confinement by a religious cult. Every effort should be made to locate and interview the victim. The interview should be conducted under conditions wherein candid responses on the part of the victim can reasonably be expected.

(2) Preliminary inquiries instituted in these matters should be closely coordinated with the USA at the very onset inasmuch as a subsequent opinion regarding Bureau jurisdiction under the Federal Kidnaping Statute is likely to be sought.

EFFECTIVE: 02/20/90

||7-4.10| Kidnaping for the Purpose of Deprogramming

(1) An immediate preliminary inquiry is to be instituted regarding an allegation that a parent has kidnaped his/her adult offspring from a religious cult or has accomplished same through an arrangement with a third party. Deprogramming and removing the offspring from the influence of the religious cult are usually the motivations for these incidents. Every effort should be made to locate and interview the victim. The interview should be conducted under conditions wherein candid responses on the part of the victim can reasonably be expected.

(2) Preliminary inquiries instituted in these matters should be closely coordinated with the USA at the very onset inasmuch as a subsequent opinion regarding Bureau jurisdiction under the Federal Kidnaping Statute is likely to be sought.

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EFFECTIVE: 02/20/90

||7-4.11| Kidnaping of a Foreign Official, Official Guest or  
Internationally Protected Person

As referred to in Title 18, USC, Section 1201(a)(4), Title 18, USC, Section 116, entitled "Murder or Manslaughter of Foreign Officials, Official Guests, or Internationally Protected Persons," is addressed in its entirety in Part I, Section 185 of this manual entitled "Protection of Foreign Officials and Official Guests of the United States."

EFFECTIVE: 02/20/90

||7-4.12| Proposed Kidnaping

An immediate preliminary inquiry is to be instituted regarding a proposed kidnaping. Immediate contact should be established with the intended victim, who should be advised of the plot and requested to maintain close contact with the field office. The Bureau will not provide bodyguards nor similar security for an intended victim; however, the field office should take every precautionary measure in order to be fully capable of handling the violation in the event the proposed scheme materializes.

EFFECTIVE: 02/20/90

||7-4.13| Hoax-Type Kidnaping

When FBI investigative effort has been expended in a matter determined to be a "hoax-type" kidnaping, the facts regarding same should be presented to the USA for a prosecutive opinion under Title 18, USC, Section 1001 (Fraud and False Statements).

EFFECTIVE: 02/20/90

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7-4.14 Missing Person

(1) In a report of a missing person wherein it is known that no indication of an abduction or possible abduction exists, the FBI has no jurisdiction for investigation under the Federal Kidnaping Statute. However, subsequent information indicating that the person is or is possibly being held for ransom, reward or otherwise establishes indicia of abduction and necessitates a preliminary inquiry under the Federal Kidnaping Statute.

(2) In a strictly missing person matter, the local authorities should be offered Bureau assistance under the domestic police cooperation guidelines (Part I, Section 62 of this manual); under the "Missing Children Act," Title 28, USC, Section 534 (NCIC Operating Manual, Part 8, entitled "Missing Person File"); and through the cooperative services of the Bureau's Criminal Justice Information Services and Laboratory Divisions. In cases where a minor, especially a minor of tender years, has disappeared and is reported missing with no indication of an abduction or voluntariness, consideration for instituting a preliminary inquiry must be similarly exercised because the minor may be particularly vulnerable and FBI participation and/or assistance to local authorities can be critical. These incidents should be closely coordinated with local authorities and the United States Attorney's office.

EFFECTIVE: 11/09/94

|| 7-4.15 | Potential Hobbs Act, Extortion and Interstate  
Transportation of Stolen Property Violations

A violation of the Federal Kidnaping Statute may also involve Hobbs Act, Extortion and/or Interstate Transportation of Stolen Property violations. In the event subsequent facts are developed indicating there is no violation of the Federal Kidnaping Statute, FBI investigative jurisdiction under these additional violations should still be considered.

EFFECTIVE: 02/20/90

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||7-4.16|      Bondsmen

Transportation of a "bond jumper" by a bondsman in interstate commerce does not constitute a violation of Title 18, USC, Section 1201. The American bondsman has the common law right to arrest and transport a "bond jumper" in interstate commerce for the purpose of surrendering him/her to the proper authorities for appearance before the court allowing the bond. This right to arrest is codified in Title 18, USC, Section 3142; however, individual states may regulate bondsmen. The transportation of a "bond jumper" by a foreign bondsman out of the United States would constitute an encroachment upon the sovereignty of the United States and may be reached by Title 18, USC, Section 1201. Encroachments upon other sovereign actions by United States bondsmen may be precluded, similarly.

EFFECTIVE: 02/20/90

7-5      CLARIFICATION REGARDING AN INVESTIGATION AS OPPOSED TO A  
PRELIMINARY INQUIRY

(1) The "Attorney General's Guidelines on Criminal Investigations of Individuals and Organizations," dated 12/2/80, addresses when an investigation can properly be opened, how an investigation should be conducted and when an investigation should be terminated. |(See MIOG, Part I, 7-6(2).)|

(2) By "Memorandum to All Special Agents," entitled "The Attorney General's Guidelines on Criminal Investigations of Individuals and Organizations," dated 12/30/80, the distinctions between conducting an investigation as opposed to a preliminary inquiry were clarified as follows.

"An investigation may only be instituted when there are facts or circumstances that 'reasonably indicate' a Federal criminal violation has occurred, is occurring, or will occur. This standard of 'reasonable indication' is substantially lower than probable cause, but does require specific facts or circumstances indicating a violation. Where the factual basis for an investigation does not yet exist, but some action appears to be necessary in regard to an allegation concerning a possible Federal criminal violation or activity, these Guidelines permit the limited procedure of conducting a 'preliminary inquiry.'

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"A 'preliminary inquiry' should be conducted solely to obtain the information necessary to make an informed judgment as to whether an investigation is warranted... Once a 'reasonable indication' of criminal activity has been developed during a 'preliminary inquiry,' an investigation may be instituted. When a 'preliminary inquiry' fails to disclose a 'reasonable indication' of criminal activity to justify an investigation, the 'preliminary inquiry' should be terminated."

(3) By airtel dated 3/17/83, entitled "Attorney General's Guidelines for the Conduct of Domestic Security/Terrorism Investigations..." all field offices and Legal Attaches were furnished a copy of the Attorney General's revised Guidelines which became effective 3/21/83. Although the revised Guidelines focus on Domestic Security/Terrorism investigations, they also contain minor modifications to those portions of the Attorney General's Guidelines governing General Crimes investigations. Preliminary inquiries, for example, were extended from 60 to 90 days. Refer to the Bureau airtel dated 3/17/83 cited above for additional details regarding other modifications applicable to General Crimes investigations. (See MIOG, Introduction, 1-3.)

(4) In a preliminary inquiry, mere contact with local authorities will not suffice to make an informed judgment as to whether a kidnaping investigation is warranted. To reach an informed judgment will require active investigation including interviews with knowledgeable police officials and family members, and possibly the setting of auxiliary office investigative leads, crime scene searches, Laboratory Division's assistance, and the application of appropriate investigative techniques permitted under the Attorney General's Guidelines.

EFFECTIVE: 09/24/93

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7-6 DEPARTMENTAL INSTRUCTIONS REGARDING QUESTIONABLE CASES

(1) The Criminal Division, DOJ, has in effect a policy whereby it closely reviews any decision by the Bureau not to conduct an investigation in those missing person cases wherein the facts indicate possible violations of the Federal Kidnaping Statute. Under this policy, the Bureau is expected to refer information concerning questionable missing person cases to the DOJ for review. USAs who become aware of a missing person case in their district, which may involve a kidnaping, have been instructed by the DOJ to ensure that such information is brought to its attention. Refer to the "United States Attorneys' Manual," Title 9, "Criminal Division," chapter 60, page four, dated 5/23/78, for full details.

(2) Bureau guidelines for instituting a preliminary inquiry and an investigation (refer to 7-4.1 and 7-5) address the Bureau's initial involvement in questionable cases.

(3) Although close coordination with the USA is recommended throughout all kidnaping matters, it is especially important in questionable cases.

(4) In the event a case remains questionable at the completion of the preliminary inquiry, the case should be discussed with the USA for an opinion regarding Bureau jurisdiction under the Federal Kidnaping Statute.

(5) In the event the questionable character of the case is not resolved through discussion with the USA, the OO should refer the matter through FBIHQ for a DOJ review.

(6) Each field office should ensure that cases are not presented to the USA prematurely since the development of sufficient facts to enable the USA to render a prosecutive opinion is a Bureau responsibility.

EFFECTIVE: 11/18/83

7-7 INVESTIGATIVE POLICY

Every kidnaping preliminary inquiry and investigation should be afforded priority attention and be allocated those resources necessary for its resolution.

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EFFECTIVE: 11/18/83

|| 7-8 INVESTIGATIVE OBJECTIVES

(1) The Bureau's primary objective is to effect the safe return of the kidnaped victim.

(2) The secondary objectives are the identification, apprehension and prosecution of the subject(s) and the recovery of any ransom payment.

EFFECTIVE: 11/18/83

|| 7-9 OBTAINING FEDERAL PROCESS

Federal process should be obtained as soon as possible after the subject is identified and it is determined that the subject will be prosecuted federally.

EFFECTIVE: 11/18/83

7-10 REPORTING PROCEDURES

EFFECTIVE: 11/18/83

7-10.1 Initial Notifications

(1) Immediately advise FBIHQ by telephone or teletype, depending upon the exigency of the circumstances, of every preliminary inquiry and investigation instituted under the Federal Kidnaping Statute. The initial teletype should be comprehensive, setting forth when and how the field office was first notified, full descriptive data regarding the victim, the identity and descriptive data of any subject or suspect, full details of the abduction or possible abduction including any known or suspected motive, the results of investigation by local authorities, action planned by local authorities, the results of the field office's investigation, action planned by the field office, any existent USA opinion, and a statement

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as to whether the field office is instituting a preliminary inquiry or an investigation.

(2) Surrounding field offices and any other field office deemed appropriate should be included as recipients of the initial teletype to FBIHQ.

(3) A Kidnaping Offense Report, FD-705, should be submitted to FBIHQ by the office of origin within 21 calendar days after the initial kidnaping report is received. This submission should include a brief narrative of the kidnaping attached to the FD-705. (See MIOG, Part I, 7-10.5(2).)

(4) A supplemental report, Part II of the FD-705, should be submitted by the office of origin within 21 calendar days after one or more of the following developments occur: (See MIOG, Part I, 7-10.5(2).)

- (a) Ransom demanded.
- (b) Subject(s) identified and Federal/state process initiated.
- (c) Victim located.
- (d) Deleted

(5) The FD-705 should be submitted to FBIHQ immediately upon the closing of a kidnaping investigation. (See MIOG, Part I, 7-10.5(2).)

(6) In cases initiated under the International Parental Kidnaping Crime Act of 1993 (IPKCA), the Violent Crimes and Major Offenders Section and the International Relations Branch, CID, FBIHQ, will both be promptly notified, by teletype or appropriate communication, to ensure that FBI investigations impacting on foreign countries are properly vetted through FBIHQ, FBI Legats, DOJ - Office of International Affairs, and the Department of State.

(7) Form FD-705, the Kidnaping Offense Form, should not be submitted for matters investigated under the IPKCA as this form is not relevant to incidents of parental abduction.

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EFFECTIVE: 11/09/94

7-10.2      Notifications Regarding Subsequent Significant  
Developments

FBIHQ and other field offices deemed appropriate should be kept apprised of subsequent significant developments.

EFFECTIVE: 02/20/90

7-10.3      Submission of LHMs in a "Kidnaping by a Religious  
Cult," 7-4.9, and a "Kidnaping for the Purpose of  
Deprogramming," 7-4.10

(1) The DOJ has expressed its desire to assess the magnitude of these matters and to be responsive to the concerns of certain citizens and religious organizations regarding allegations of "brainwashing" by religious cults and deprogramming abductions.

(2) Therefore, in addition to the reporting procedure set forth in 7-10.1, a succinct LHM (original and four copies) should be submitted to FBIHQ by airtel within 20 working days of receipt of the initial complaint. Any existent USA opinion should be reflected therein.

(3) Upon receipt of the LHM, FBIHQ will disseminate same to the Criminal Division, DOJ.

EFFECTIVE: 02/20/90

7-10.4      Prosecutive Reports

In those instances wherein a prosecutive report is prepared, normally only one copy of the report should be designated for FBIHQ. For details regarding report writing, refer to the MAOP, Part II, 10-14, entitled "Types of Reports," and 10-15, entitled "Prosecutive Report."

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EFFECTIVE: 02/20/90

7-10.5 Notification to FBIHQ Regarding Final Outcome

In order that the FBIHQ substantive case file may reflect the final outcome of each violation; the following FBIHQ notification policy should be adhered to by the office of origin.

(1) | Ensure all appropriate statistical accomplishments have been submitted by FD-515.

(2) | In cases in which a USA declines or defers prosecution or in cases determined not to be a violation of the Federal Kidnaping Statute, a closing communication should be directed to FBIHQ clearly setting forth the basis for closing. This closing communication does not eliminate the requirement for submission of the final FD-705. See 7-10.1(3), (4) and (5).|

EFFECTIVE: 10/26/87

7-11 STATE PROSECUTION

(1) FBIHQ desires that the results of state prosecution be followed in kidnaping cases even though Federal prosecution has been completed, declined or deferred by the USA.

(2) In those instances wherein Federal prosecution was declined or deferred, if the defendant or defendants in the state prosecution are acquitted or received a comparatively light sentence, a valid reason exists for again presenting the case to the USA, looking toward Federal prosecution.

EFFECTIVE: 02/20/90

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7-12 CONTINGENCY PLANNING

FBIHQ does not consider it feasible to develop a single kidnaping response and subsequent investigative plan which would be applicable to every field office. Therefore, each field office is responsible for the development and maintenance of a kidnaping operations plan which will meet its needs, while still fulfilling the FBI's investigative responsibilities.

EFFECTIVE: 02/20/90

7-13 FBI INTERACTION WITH PARENTS, GUARDIANS AND FAMILY MEMBERS  
OF KIDNAP VICTIMS

(1) The Bureau must continually demonstrate the utmost concern for and empathy with the emotional trauma which a victim's parents, guardians or family members undergo. All situations must be addressed in an entirely professional manner consistent with the Bureau's role as a public servant.

(2) Parents, guardians or family members, unless determinable and articulable facts preclude doing so, should be kept advised of those investigative developments which can be disseminated without jeopardizing the integrity of the investigation.

(3) While the Bureau is bound to the prohibition against divulging pending case matters to the public, attention is drawn to the special concern of an identified parent, guardian or family member and the due regard for same which the Bureau should exhibit.

(4) Every SAC, through the Victim-Witness Coordinator (VWC), is charged with the responsibility to ensure that all provisions of the Victim and Witness Protection Act of 1982 are met, as well as the Victims' Rights Statutes contained in the Crime Control Act of 1990. The VWC should be apprised of kidnap/child abduction incidents, as appropriate, so that referrals and services available to victims and their families are determined and readily accessible.

EFFECTIVE: 11/09/94

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7-14 INVESTIGATIVE CONSIDERATIONS

Due to the variance of circumstances in kidnaping investigations, the investigative considerations set forth herein are not to be considered all inclusive but should serve only as a general guide in conducting kidnaping investigations. In the event an abduction of an infant has taken place, refer to 7-4.6.

EFFECTIVE: 02/20/90

7-14.1 Initial Report of a Kidnaping

(1) The name, address, telephone number and current location of the individual reporting the kidnaping should be obtained.

(2) The complete name and full descriptive information of the victim should be obtained.

(3) In cases involving the abduction/mysterious disappearance of a minor, field offices should not rely solely upon reports or referrals from local law enforcement, but should also remain alert to possible violations identified through the victim(s), witnesses, and media reports. The field office should be prepared to address these incidents either through a full kidnaping investigation or the use of the preliminary inquiry, whichever is most appropriate at the time of the report.

EFFECTIVE: 11/09/94

7-14.2 Residence Coverage

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EFFECTIVE: 11/18/83

7-14.3 Interviews of Family Members

(1) One Special Agent should be designated in charge of interacting with the victim's family. Whenever possible, this Special Agent should deal directly with a single family spokesperson to avoid conflict with other family members.

(2) The character, extent and nature of inquiries which are pursued should be in accordance with the instructions of the Special Agent in charge. All ideas which originate with family members should be noted and referred to the Special Agent in charge.

(3) Family members must be repeatedly and almost constantly interviewed in a conversational manner. The interviews should cover all matters pertinent to the investigation and be structured as to facilitate staying abreast of the family's thinking. It is imperative that Special Agents assigned to family interviews be consistent in their expressions in order that all problems might be addressed without contradiction.

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(4) Questions propounded to family members and responses thereto should be noted to avoid repetition.

(5) Special Agents should be frank and responsive at all times with regard to the questions and problems posed by the family members. However, unnecessary information should not be volunteered. Impressions of mystery and evasiveness should be avoided.

(6) Efforts should be made to obtain the following during the course of the family member interviews:

- (a) Current photograph of the victim.
- (b) Description of the victim's wearing apparel at the time of kidnaping.
- (c) Listing of personal belongings in possession of the victim at the time of kidnaping.
- (d) Victim's complete physical description.
- (e) Complete background data of the victim.
- (f) Victim's hair specimens.
- (g) Victim's fingerprints.
- (h) Identities of the family physician, dentist and church official (if appropriate) and the means for locating them at any time.
- (i) Availability of the victim's medical and dental history.
- (j) Identities of family friends and associates.
- (k) Identities of all individuals who have been notified or have knowledge of the kidnaping for the purpose of cautioning them against divulging knowledge of the kidnaping.
- (l) Identities of servants and service personnel.
- (m) Activities of the victim and family prior to the kidnaping.



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- (n) Normal activities and itineraries of the family.
- (o) Family's financial status.
- (p) Family's insurance coverage.
- (q) Possible suspects.

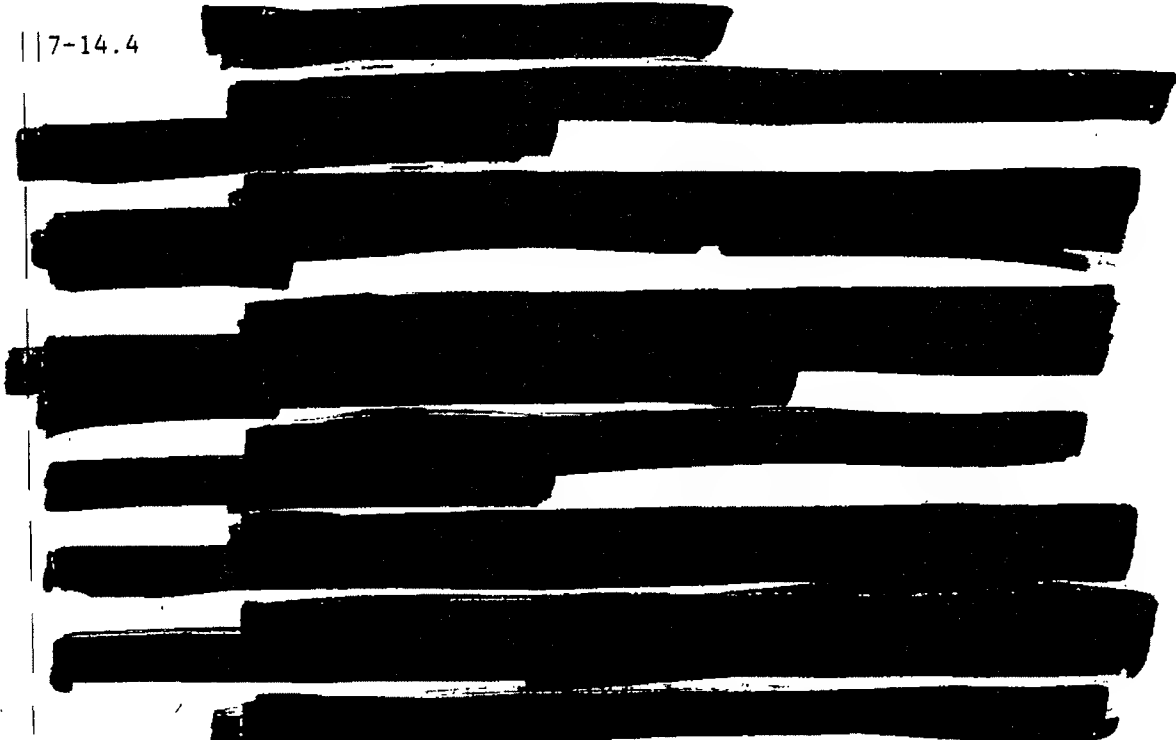
(7) The family should be cautioned regarding undesired disclosure of the situation to the news media.

(8) News media inquiries with the family should be handled by the most stable family member available or referred to a predesignated family spokesperson fully aware of all aspects of the situation.

(9) The family should be encouraged to coordinate all news media responses with the Bureau.

EFFECTIVE: 11/18/83

7-14.4



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EFFECTIVE: 11/18/83

7-14.5 Ransom Demands

(1) When a kidnaping has received news media attention, it is not uncommon for an individual not involved in the kidnaping to attempt to extort a ransom from the victim's family.

(2) All ransom demands should be accepted as emanating from the kidnaper until investigation indicates otherwise.

(3) Ransom demands conveyed by an opportunist may constitute Federal Extortion or Hobbs Act violations or violations of applicable state laws.

EFFECTIVE: 11/18/83

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7-14.6 Ransom Payment and Coverage

(1) The decision whether or not to comply with the ransom demand is that of the victim's family.

(2) The most important consideration relative to ransom payment is the safety of the victim. The degree of danger will vary from case to case and must be assessed accordingly.

(3) The pros and cons of any action in this regard should be frankly discussed with the family.

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The safe return of the victim is the FBI's primary objective, and, until the victim is released, the apprehension of the kidnaper and the recovery of the

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ransom are secondary objectives.

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(16) Sufficient personnel and all necessary equipment and supplies should be made available for immediate use.

EFFECTIVE: 11/18/83

7-14.7 The National Crime Information Center's (NCIC) Missing Person File

The OO should immediately enter the victim's identity in the NCIC's Missing Person File under the involuntary category. Refer to the NCIC Operating Manual, Part 8, entitled "Missing Person File," for detailed information.

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EFFECTIVE: 11/18/83

7-14.8 The Criminal Justice Information Services  
Division's (formerly Identification Division) Missing  
Person File

(1) The OO should immediately determine the existence of  
a fingerprint card for the victim.

(2) A victim's fingerprint card already on file with the  
Criminal Justice Information Services Division should be entered in  
the Criminal Justice Information Services Division's Missing Person  
File.

(3) A victim's fingerprint card not on file with the  
Criminal Justice Information Services Division should be submitted to  
that division for entry in the Missing Person File.

(4) Refer to Part II, 14-10.3, of this manual entitled  
"Missing Person Fingerprint File," for detailed information.

EFFECTIVE: 04/08/96

7-14.9 Scientific Aids

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(2) Deleted

(3)



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(4) The polygraph technique should be used in strict compliance with Part II, 13-22, of this manual entitled "Polygraph Examinations."

EFFECTIVE: 07/17/95

7-14.10 Circular Letters

(1) On a selective basis, it may be desirable to circularize state, county, and city law enforcement agencies by circular letter in an effort to recover the kidnaped victim and identify or locate the subject.

(2) The utilization of this technique may prove especially beneficial in those instances wherein the victim is a minor of tender years and investigation indicates the motive for kidnaping to be child stealing rather than ransom or reward.

(3) In considering the desirability of the issuance of a circular letter, it should be determined whether local law enforcement agencies have already issued or intend to issue a similar type bulletin. In any event, close coordination with the local law enforcement agencies having jurisdictional interest in the investigation should be effected to preclude a duplication of effort.

(4) The SAC may authorize the issuance of a circular letter within the field office's territory.

(5) Circularization in contiguous field offices may be authorized by the SAC on a UACB basis.

(a) An airtel should be directed to FBIHQ requesting this additional circularization on a UACB basis and must include sufficient facts and justification to enable FBIHQ to properly

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evaluate the additional circularization.

(b) Contiguous offices must be included as recipients of the airtel with leads set forth requesting the desired circularization.

(c) The airtel should enclose three copies of the proposed circular letter for FBIHQ to assist in the evaluation, with sufficient copies enclosed for contiguous offices to accomplish the desired circularization.

(6) In all instances, the circular letter must include the following:

(a) A brief and concise narrative of the kidnaping.

(b) A recent photograph of the victim and the victim's physical description.

(c) The subject's physical description and, if available, a photograph or artist's conception of the subject.

(d) A caution statement regarding the subject and a statement that no action should be taken which would endanger the kidnaped victim.

(e) A statement that if any positive information is developed, immediately contact the local office of the FBI, the telephone number of which should be set forth on the inside, front cover of a local telephone directory.

(7) Circularization beyond contiguous offices requires prior FBIHQ approval in accordance with existing instructions governing circular letters.

(8) Refer to Part II, 21-24, of this manual entitled "Circular Letters," for detailed information.

(9) The OO must ensure that the necessary administrative controls are initiated by which to cancel the circular letter when it is no longer needed.

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7-14.11 Public Appeal Through Local News Media

(1) On a highly selective basis, it may be desirable to issue a public appeal through local news media for the safe return of a kidnaped victim and/or for information concerning the whereabouts of the victim.

(2) The utilization of this technique may prove especially beneficial in those instances wherein the victim is a minor of tender years and investigation indicates the motive for kidnaping to be child stealing rather than ransom or reward.

(3) Paramount in considering the desirability of this technique is whether any reason exists to believe that public appeal will result in the victim being harmed by the subject.

(4) The SAC may authorize the issuance of a public appeal through local news media, but only with the written consent of the victim's parents, guardians or appropriate next of kin.

(5) FBIHQ must be notified by teletype prior to any issuance of a public appeal in this regard in order to appropriately respond to news media inquiries.

(6) A public appeal through local news media should be conducted by the SAC or his/her designate.

(7) Unless reasons preclude inclusion, the public appeal through local news media for the safe return of a kidnaped victim and/or for information concerning the whereabouts of the victim should include that information set forth in 7-14.10(6).

(8) All public appeals in this regard should be in strict accordance with the instructions set forth in the MAOP, Part II, 5-1, entitled "Policy and Guidelines for Relations with News Media," and 5-2, entitled "Contacts with News Media."

EFFECTIVE: 11/18/83

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7-14.12 Crime Scene Examination

It is imperative that all crime scenes be thoroughly examined and that all items of evidentiary value be preserved. Refer to Part II 13-6.4, of this manual entitled "Crime Scene Search," and Section 15, entitled "Latent Fingerprint Identification," for detailed information.

EFFECTIVE: 10/23/86

7-14.13 Proposed Kidnaping

(1) The intended victim should be interviewed for a detailed listing of all suspects, together with other pertinent information which would not be available in the event the intended victim is actually kidnaped.

(2) Handwriting examples, fingerprints, major case prints and photographs of the intended victim should be obtained.

EFFECTIVE: 10/23/86

7-14.14 Advising Local Law Enforcement Authorities

(1) Unless conclusive reasons preclude doing so, local law enforcement authorities should be advised of the kidnaping or proposed kidnaping inasmuch as they may already be or may become involved in the investigation independent of the Bureau.

(2) Establishing and maintaining effective liaison with local law enforcement authorities during the course of a preliminary inquiry or an investigation are equally important for it may be determined that no violation of the Federal Kidnaping Statute exists and that the violation is strictly local in nature.

EFFECTIVE: 10/23/86

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7-14.15 General Guidelines for International Parental Kidnaping  
Crime Act Investigations

(1) Expeditiously identify the known or suspected foreign location of the abducting parent and child and promptly coordinate with the United States Attorney (USA). The USA will make a determination as to willingness to extradite and will coordinate any requests through DOJ-Office of International Affairs.

(2) Appropriate "Stops" should be in place in the event that the fugitive flees the United States or attempts re-entry while a fugitive. These stops should include NCIC entry and modifications; the Form FD-315 (INS Lookout Notice for a foreign national who is the subject of an FBI fugitive investigation); and requests for the appropriate INTERPOL "Red Notice" or "Blue Notice," through FBIHQ.

(3) The abducting parent and child may be travelling extraterritorially on U.S. passports. The passport numbers should be identified and a request made of the Department of State (DOS) to have the passport revoked or a "lookout" placed. The existence of a felony warrant or a fugitive warrant for a felony (UFAP) is a ground for revocation of the passport. Note that the passport revocation process requires DOS notification to the passport holder(s).

(4) FBI employees have no authority to request foreign officials to arrest, detain or extradite a fugitive. FBI personnel should not make direct contact with foreign law enforcement in pursuit of a fugitive, but should leave such contacts to the Department of Justice - Office of International Affairs (DOJ-OIA), appropriate FBI Legats, or INTERPOL-United States National Central Bureau (USNCB).

(5) Issues related to the citizenship of the abducting parent and victim child, existence of an extradition treaty in force, applicability of the fugitive warrant and related charges within the details of the relevant treaty, the Hague Convention, etc., are matters which must be reviewed prior to the issuance of an extradition, provisional arrest, or repatriation request. At a minimum, the field office should establish the citizenship status of the abducting parent and child.

(6) FBI Legats at the known/suspected foreign location should be provided with details of the IPKCA investigation as early as possible. The notification should be by LHM, with cover airtel, setting forth details of the investigation, or by teletype suitable for dissemination. The Legat should not be requested to seek active

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investigation by the foreign law enforcement agency without previous discussions with DOJ-OIA. Preliminary leads should be for the purpose of verifying the abducting parent's and child's locations, citizenship, etc., through passive means in the foreign country. An LHM and cover airtel should be prepared and forwarded to FBIHQ for dissemination to INTERPOL for leads in those foreign countries where there is no FBI Legat coverage.

(7) The USA should be prepared to provide all documentation required in support of the extradition, provisional arrest, or repatriation request. This will include a variety of documents, affidavits, depositions, etc., which must be translated, certified, and transmitted to the diplomatic representative of the foreign country.

(8) FBI field offices and Legats should not routinely accept or solicit transportation/escort responsibility for the fugitive parent or victim child. Investigative or other circumstances may exist where the FBI appropriately seeks this responsibility and these should be coordinated through the substantive FBIHQ Unit and DOJ-OIA.

(9) Field offices are requested to identify the extraterritorial location of the abducting parent/child in their investigative files. Form FD-65 may be utilized for this purpose by utilizing the "Miscellaneous" block in the form, stating "Known (or suspected) to be located in (country)" in the block. This will facilitate the tracking of subjects in the databases maintained by FBIHQ.

(10) Field offices must maintain NCIC entries on extraterritorial fugitives until the fugitive is returned to the United States for prosecution. No "Clear/Cancel" or "locates" are to be placed against the NCIC record until the subject is in federal custody in the United States regardless of whether the substantive case is in pending or pending-inactive status.

(11) If the abducted child is suspected to be in a Hague Convention country, the custodial parent should be advised that assistance can be obtained through contact with the Child Custody Division, Office of Citizens Consular Services (CCS), Room 4817, U.S. Department of State (DOS), 2201 C Street, N.W., Washington, D.C. 20520-4818, Telephone Number 202-736-7000.

(12) Even in situations when the abducted child is taken to a non-Hague Convention country, the DOS may be able to initiate

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efforts to locate the abducted child, inquire as to the child's welfare, and possibly open communications to effect a return of the child. This action should be closely coordinated with the affected Legat.

EFFECTIVE: 11/09/94

7-15 RANSOM MONEY

EFFECTIVE: 10/23/86

7-15.1

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Section 552

Section 552a

☐ (b)(1)

☐ (b)(7)(A)

☐ (d)(5)

☒ (b)(2)

☐ (b)(7)(B)

☐ (j)(2)

☐ (b)(3)

☐ (b)(7)(C)

☐ (k)(1)

☐ (b)(7)(D)

☐ (k)(2)

☒ (b)(7)(E)

☐ (k)(3)

☐ (b)(7)(F)

☐ (k)(4)

☐ (b)(4)

☐ (b)(8)

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☐ (b)(9)

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☐ (b)(6)

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MEOG Manual 7-15.1 pages 7-43 and 7-44; 7-15.2 page 7-45; 7-15.3 pages 7-45 and 7-46  
7-15.4 pages 7-47, 7-48, and 7-49

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7-15.5

(1)

(2)

(3) Circularization in contiguous field offices may be authorized by the SAC on a UACB basis.

(a) An airtel should be directed to FBIHQ requesting this additional circularization on a UACB basis and must include sufficient facts and justification to enable FBIHQ to properly evaluate the additional circularization.

(b) Contiguous offices must be included as recipients of the airtel with leads set forth requesting the desired circularization.

(c) The airtel should enclose three copies of the proposed circular letter for FBIHQ to assist in the evaluation, with sufficient copies enclosed for contiguous offices to accomplish the desired circularization.

(4) In all instances, the circular letter must include the following:

(a) A brief and concise narrative of the kidnaping

(b)

(c) The subject's physical description and, if available, a photograph or artist's conception of the subject.

(d)

(e) A caution statement regarding the subject and a statement that no action should be taken which would endanger anyone's safety.

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(f) A statement that if any positive information is developed, immediately contact the local office of the FBI, the telephone number of which should be set forth on the inside, front cover of a local telephone directory.

(5) Circularization beyond contiguous offices requires prior FBIHQ approval in accordance with existing instructions governing circular letters.

(6) Refer to Part II, 21-24, of this manual entitled "Circular Letters," for detailed information.

(7) The OO must ensure that the necessary administrative controls are initiated by which to cancel the circular letter when it is no longer needed.

EFFECTIVE: 10/23/86

7-15.6

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| DELETED - SEE MIOG, PART II, SECTION 32. |

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EFFECTIVE: 10/07/93

7-17

LIAISON WITH LOCAL LAW ENFORCEMENT AUTHORITIES

(1) It is incumbent upon each field division to ensure that local law enforcement authorities fully understand the Bureau's jurisdiction and national policy for instituting a preliminary inquiry and an investigation under the Federal Kidnaping Statute.

(2) It is also incumbent upon each field division to ensure that local law enforcement authorities fully understand Bureau assistance available under the domestic police cooperation guidelines (Part I, Section 62 of this manual); under the "Missing Children Act" (Title 28, USC, Section 534) (NCIC Operating Manual, Part 8, entitled "Missing Person File"); and through the cooperative services of the Bureau's Identification, Laboratory and Training Divisions in those cases wherein it is determined that no violation of the Federal Kidnaping Statute exists.

(3) Liaison with local law enforcement authorities should be established and maintained to ensure that violations and possible violations of the Federal Kidnaping Statute will be promptly reported to FBI field divisions or resident agencies in the event an offense is initially received by those authorities.

EFFECTIVE: 10/23/86

7-18

NEWS MEDIA INQUIRIES POLICY

(1) In many cases, violations of the Federal Kidnaping Statute generate intense public and media interest. The FBI's news media inquiries policy is in strict compliance with instructions issued by the DOJ concerning the release of information in criminal and civil matters. These instructions are contained in Title 28, CFR, Section 50.2.

(2) For complete details regarding this topic, including a restatement of the above CFR instructions, refer to the MAOP, Part II, 5-1, entitled "Policy and Guidelines for Relations with News Media," and 5-2, entitled "Contacts with News Media."

(3) Utmost discretion should be exercised in releasing to



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the news media any information concerning a kidnaping investigation in order not to jeopardize the safety of the victim.

EFFECTIVE: 10/23/86

7-19 CHARACTER AND CLASSIFICATION - KIDNAPPING (See MIOG, Introduction, 2-1.6.4; MAOP, Part II, 3-1.1 & 3-1.2.)

(1) Investigations of violations of the Kidnapping statutes, Sections 1201 and 1202, will be conducted under the 7A classification.

(2) Investigations of violations of the IPKCA, section 1204, will be conducted under the 7B classification. IPKCA cases should be captioned as follows:

JOHN DOE;  
MARY DOE (name of abducted child) - VICTIM;  
KIDNAPPING - INTERNATIONAL PARENTAL KIDNAPING CRIME ACT  
(IPKCA);  
OO: XX

EFFECTIVE: 10/18/95

| 7-20 | DELETED |

EFFECTIVE: 11/09/94

| 7-21 | HOSTAGE TAKING

Refer to MIOG, Part I, Section 256, for proper handling.

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SECTION 8. MIGRATORY BIRD ACT

8-1 STATUTES

Title 18, USC, Section 43

Title 16, USC, Sections 703 through 718

EFFECTIVE: 01/31/78

8-1.1 Investigative Jurisdiction

Primary jurisdiction regarding migratory game, fish, and birds lies with Fish and Wildlife Service of Department of Interior.

EFFECTIVE: 01/31/78

8-2 ELEMENTS

For details see USC at:

(1) Title 18 (Crimes and Criminal Procedure)

(2) Title 16 (Conservation)

EFFECTIVE: 01/31/78

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8-3 POLICY

(1) Allegations of violations submitted by closing prosecutive report to FBIHQ

(a) FBIHQ refers matters to Department of Justice

(b) Department of Justice will either request FBI investigation or refer matter to Department of Interior.

(2) Investigation conducted only upon authority from FBIHQ.

(3) No reports submitted for purposes of recording criminal convictions as statistics, unless FBI conducted investigation.

EFFECTIVE: 01/31/78

8-4 PENALTIES

Refer to citations listed in 8-2 above.

EFFECTIVE: 01/31/78

8-5 CHARACTER - MIGRATORY BIRD ACT

EFFECTIVE: 01/31/78

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SECTION 9. EXTORTION

9-1 BACKGROUND | (See MIOG, Part I, 7-4.14, 89-2.7, 89-3.6, 89-3.9, 175-6, 251-5, 251-10.) |

(1) The Extortion Statute was passed by Congress on July 8, 1932, and originally was embodied in the United States Code (USC) under Title 18, Sections 338A and 338B. These sections have been amended from time to time and are presently set forth in Sections 876 and 877 of that title.

(2) Included within the Bureau character of Extortion are those sections of Title 18 which deal with blackmail (Section 873), threats transmitted by interstate or foreign communications other than by mail (Section 875) as well as threatening communications transmitted through the mail (Sections 876, 877).

(3) On November 10, 1986, the President signed into law S. 1236, the "Criminal Law and Procedures Technical Amendments Act of 1986." This law was effective November 10, 1986, and one of its provisions deals with Title 18, USC, Section 875 - Interstate Communications. Title 18, USC, Section 875 was expanded to include threats transmitted in foreign commerce.

| (4) Under the Violent Crime Control and Law Enforcement Act of 1994, Title 18, U.S. Code, Sections 2261 and 2262, were enacted. These sections are part of the "Safe Homes for Women Act of 1994" and create federal violations aimed at domestic violence. Domestic violence is defined to include "...felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse...." (See MIOG, Part I, 9-2.5 and 9-2.6.) |

EFFECTIVE: 11/25/96

9-2 STATUTES

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EFFECTIVE: 05/11/87

9-2.1 Section 873 - Blackmail

(1) "Whoever, under a threat of informing, or as a consideration for not informing, against any violation of any law of the United States, demands or receives any money or other valuable thing, shall be fined not more than \$2,000 or imprisoned not more than one year, or both."

(2) The elements of blackmail are (1) coercion and (2) unlawful consideration. Refer to 228 Fed. Sup. 345, U.S. v. Smith, U.S. District Court, Louisiana, 1964.

EFFECTIVE: 05/11/87

9-2.2 Section 875 - Interstate Communications

"(a) Whoever transmits in interstate|or foreign|commerce any communication containing any demand or request for a ransom or reward for the release of any kidnapped person, shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both.

"(b) Whoever, with intent to extort from any person, firm, association, or corporation, any money or other thing of value, transmits in interstate|or foreign|commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both.

"(c) Whoever transmits in interstate|or foreign|commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined not more than \$1,000 or imprisoned not more than five years, or both.

"(d) Whoever, with intent to extort from any person, firm, association, or corporation, any money or other thing of value, transmits in interstate|or foreign|commerce any communication containing any threat to injure the property or reputation of the addressee or of another or the reputation of a deceased person or any threat to accuse the addressee or any other person of a crime, shall be fined not more than \$500 or imprisoned not more than two years, or both."

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EFFECTIVE: 05/11/87

| 9-2.3 Section 876 - Mailing Threatening Communications

(1) Violations of Section 876 are the same as enumerated under Sections 875 (a), (b), (c), and (d) except that the threat/extortion is conveyed to the victim/addressee by way of the United States Postal Service (USPS).

(2) Penalties for violation of Section 876 are the same as those under Sections 875 (a), (b), (c), and (d).

(3) The use of the mail to communicate any threat to injure the reputation of the addressee (alive or deceased) or to accuse the addressee or any other person of a crime is a violation punishable by fines up to \$500 or imprisonment not to exceed two years. Jurisdiction rests solely with the U.S. Postal Inspector.

EFFECTIVE: 03/28/84

| 9-2.4 Section 877 - Mailing Threatening Communications from a Foreign Country

(1) Violations of Section 877 are the same as enumerated under Section 875 (a), (b), (c), and (d) except that the threat/extortion is placed in the bona fide mail service of a foreign country for delivery to the USPS and by it for delivery to the addressee in the United States.

(2) 9-2.3 (3) applies to Section 877.

EFFECTIVE: 03/28/84

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9-2.5 Section 2261 - Interstate Domestic Violence (See MIOG,  
Part I, 198-7.)

(1) "A person who travels across a state line or enters or leaves Indian Country with the intent to injure, harass, or intimidate that person's spouse or intimate partner, and who, in the course of or as a result of such travel, intentionally commits a crime of violence and thereby causes bodily injury to such spouse or intimate partner."

(2) "A person who causes a spouse or intimate partner to cross a state line or to enter or leave Indian Country by force, coercion, duress, or fraud and, in the course or as a result of that conduct, intentionally commits a crime of violence and thereby causes bodily injury to the person's spouse or intimate partner."

(3) A person who violates this section shall be fined under this title, and imprisoned-

(a) for life or any term of years, if death of the offender's spouse or intimate partner results;

(b) for not more than 20 years if permanent disfigurement or life-threatening bodily injury to the offender's spouse or intimate partner results;

(c) for not more than 10 years, if serious bodily injury to the offender's spouse or intimate partner results or if the offender uses a dangerous weapon during the offense;

(d) as provided for the applicable conduct under chapter 109A if the offense would constitute an offense under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a federal prison); and

(e) for not more than five years, in any other case, or both fined and imprisoned.

EFFECTIVE: 11/25/96

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9-2.5.1 Section 2261 - Interstate Domestic Violence - Elements  
(See MIOG, Part I, 198-7.)

(1) This law requires specific intent at the time of crossing the state line.

(2) The parties must fall under the statutory definition of spouse or intimate partner.

(3) There must be bodily injury for prosecution under this statute. A kidnapping with no resulting physical injuries would not fall under this statute.

(4) Section 2261(2) - This statute does not require a showing of specific intent to cause a spouse or intimate partner to travel across the state or Indian territory line. However, it does require proof of force, coercion, duress or fraud.

(5) Section 2261(2) - The subject must intentionally commit a crime of violence during the course of, or as a result of, the travel.

EFFECTIVE: 11/25/96

9-2.6 Section 2262 - Interstate Violation of Protection Order  
(See MIOG, Part I, 198-7.)

(1) "A person who travels across a state line or enters or leaves Indian Country with the intent to engage in conduct that:

"(A)(i) violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued; or

"(ii) would violate subparagraph (A) if the conduct occurred in the jurisdiction in which the order was issued."

(2) "A person who causes a spouse or intimate partner to cross a state line or to enter or leave Indian Country by force, coercion, duress or fraud, and in the course or as a result of that

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conduct, intentionally commits an act that injures the person's spouse or intimate partner in violation of a valid protection order issued by a State."

(3) Penalties for violation of Section 2262 are the same as those under Section 2261.

EFFECTIVE: 11/25/96

9-2.6.1 Section 2262 - Interstate Violation of Protection Order - Elements (See MIOG, Part I, 198-7.)

(1) There must be specific intent at the time of crossing the state line.

(2) Section 2262(b) does not require the same specific intent. It is sufficient to prove the subject caused the crossing of the state line and intended to injure the victim in violation of a valid protective order.

(3) Many state protective orders are merely mutual restraining orders and will not conform to the statutory requirements.

EFFECTIVE: 11/25/96

9-3 JURISDICTION

The FBI has exclusive jurisdiction over all of the above sections except those parts of Sections 876 and 877 wherein the threatened act is to injure a person's reputation and/or accuse a person of a crime and/or reveal illicit practices or associations. Such matters should be promptly referred to the U.S. Postal Inspector for handling.

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9-4 DEPARTMENTAL INSTRUCTIONS

(1) Note the provisions of Section 875 specifically refer to threatening communications received by corporations. Opinion of the Criminal Division of the Department of Justice (DOJ) indicates that Sections 876 and 877 will apply in cases in which threatening communications are received by corporations, as well as those in which such communications are received by private individuals.

(2) The Criminal Division of the DOJ has furnished an opinion indicating that "intent to extort" as contemplated by this act must be an intent to secure something of benefit for the sender of the threatening communication or communications. This opinion indicated that the Criminal Division does not consider it sufficient that the demand be for the recipient of the letter to give up something which would not prove to be of benefit to the sender of the communication. When doubt exists as to the "intent to extort" or where it appears questionable as to whether the thing demanded is a "thing of value," the appropriate United States Attorney (USA) should be immediately consulted for the purpose of determining whether prosecution would be authorized in the event the identity of the writer of the letter is established by subsequent investigation.

(3) The DOJ has advised that with regard to threats made to destroy public buildings, public facilities, ships, or other property, no violation exists under Federal Extortion Statutes unless a specific threat is made to injure a person or unless such threat is coupled with an attempt to extort money or other thing of value. It was stated that a violation of Title 18, USC, Section 844(e), pertaining to explosives, appears to be present in those situations in which a threat to such public facilities or other property is made. This code section is referred to in Part I, Section 174, of this manual. Violations of this type should be submitted under the bombing matters caption and handled in accordance with appropriate existing instructions.

(4) A threat has been defined, as set forth in the USAs' Manual, Title 9 - Criminal Division, under paragraph 9-60.340, entitled "Special Considerations," as, "'an avowed present determination or intent to injure presently or in the future.' United States v. Metzdorf, 252 Fed. 933, 938; United States v. Marino, 148 F. Supp. 75, 77. The question of whether particular language constitutes a threat is for the trier of fact to determine. United States v. Pennell, 144 F. Supp. 317 (D.C. Cal., 1956). The Fourth Circuit has held that if a reasonable recipient familiar with the context of the communication would interpret it as a threat, the issue should go to

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the jury. United States v. Maisonet, 484 F. 2d 1356 (1973). The District Court for Montana has held that a threat need not be of such a nature as to have actually induced fear in the mind of the recipient. United States v. Holder, 302 F. Supp. 296 (1969), affirmed 427 F. 2d 715."

EFFECTIVE: 03/28/84

9-5 POLICY

EFFECTIVE: 03/28/84

9-5.1 Acceptance of Extortion Matters Referred to the FBI by  
Local Law Enforcement

(1) Prior Bureau policy precluded the acceptance of any extortion matter wherein local authorities had conducted a preliminary investigation even if the subject(s) had been identified and/or apprehended. Realizing that in most extortion cases local/state laws/statutes are applicable as well as Federal statutes, this policy has been modified with regard to acceptance of cases wherein local authorities may have conducted a preliminary investigation.

(2) When an extortion matter is referred to the Bureau from another law enforcement agency, the field office should do the following:

(a) Review the fact situation for elements to determine that a violation of the Federal Extortion Statute has occurred or may occur.

(b) Consult with the appropriate USA or Assistant United States Attorney (AUSA) to ensure that a prosecutable Federal case exists. Inasmuch as the local investigation may preclude successful Federal prosecution, a USA's or AUSA's opinion is mandatory.

(3) Blanket acceptance of referred extortion matters is to be avoided. However, where a viable Federal case exists and FBI investigation and Federal prosecution are appropriate means to address the extortion, acceptance should be considered.

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EFFECTIVE: 03/28/84

| 9-5.2 Prosecution Under the Hobbs Act

Consideration should be given to the use of the Hobbs Act as a vehicle of prosecution where the extortion scheme includes the use of intrastate phone calls or without the use of the USPS, e.g., hand-delivered notes. The DOJ has instructed all USAs that when such a fact situation is encountered (where it may be desirable to charge a violation under the Hobbs Act), the DOJ must be consulted. See also Part I, Section 192, of this manual.

EFFECTIVE: 03/28/84

| 9-5.3 Extortion Involving a Federal Judge, U.S. Attorney or Assistant U.S. Attorney

(1) When a Federal judge, USA or AUSA is the victim, the appropriate offices of the United States Secret Service (USSS) and United States Marshal Service (USMS) should be immediately advised. Additionally, if investigation is initiated, close contact should be established and maintained with the USMS.

(2) The FBI has investigative jurisdiction in extortion matters involving Federal judges, USAs and AUSAs. The USMS will provide security if requested by the judge, USA, or AUSA who is the victim in the matter. The FBI does not provide "threat assessments," but any investigative information which will aid the USMS in meeting its security responsibilities should be promptly furnished to that agency as it is developed. See also Part I, 89-2.8, of this manual, for additional details regarding the handling of "threat assessment requests."

(3) FBIHQ is required to advise the Executive Office of USAs at the DOJ in addition to the USSS and USMS of each threat matter involving a USA or AUSA as the intended victim. The teletype or other communication reporting such matters to FBIHQ should be factual, concise, and in a form suitable for dissemination.

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EFFECTIVE: 03/28/84

9-5.4 Extortions of Officials or Employees of a Federal, State  
or Local Government Where the Threat is to Cause Bodily  
Harm or Redress a Grievance

(1) Dissemination of the facts of the case and the name of the  
subject(s), etc., is to be made to the USSS locally and at the  
headquarters level.

(2) FBIHQ will, in the case of a Federal employee, disseminate  
the pertinent facts, if appropriate, to the victim's employing agency.

(3) In each such case, FBIHQ is to be notified by telephone,  
teletype or airtel enclosing a summary LHM suitable for dissemination.  
The form of notification is dependent on the exigency of the matter.  
Telephone notification must be confirmed promptly by teletype.

(4) Appropriate law enforcement agencies should immediately be  
apprised of these matters so that those responsible for the official's/  
employee's security may take the necessary action.

(5) In many cases, the official's/employee's mail is screened  
by an administrative aide(s) who brings such extortions to the attention  
of the Bureau. The intended victim in these matters is to be notified of  
the threat unless there is a sound investigative reason not to. Promptly  
advise FBIHQ of any instance in which the intended victim was not notified  
and the reason(s) why such notification was not made.

(6) If the victim is a U.S. Representative, U.S. Senator or  
other U.S. Government official, see Part I, 89-3.10, 89-3.13 and 89-3.14,  
of this manual, concerning notification policy to include  
FBIHQ and the Washington Metropolitan Field Office (WMFO). In addition,  
the communication notifying of an extortion matter with one of the above  
persons as the victim should be sent to the field office which covers the  
victim's "home" district/residence with a lead to make appropriate  
notifications at the official's office and to the concerned local law  
enforcement agencies.

EFFECTIVE: 02/16/89

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9-5.5 Acceptance of Interstate Domestic Violence Matters  
Referred to the Violent Crimes Program

When an Interstate Domestic Violence matter is referred from another agency, the field office should do the following:

(1) Review the fact situation for elements to determine that a violation of the federal Interstate Domestic Violence Statute (Title 18, USC, Sections 2261 and 2262) has occurred.

(2) Consult with the appropriate USA or Assistant United States Attorney (AUSA) to ensure that a prosecutable federal case exists. Inasmuch as the local investigation may preclude successful federal prosecution, a USA's or AUSA's opinion is mandatory.

(3) Blanket acceptance of referred Interstate Domestic Violence matters is to be avoided. However, where a viable federal case exists and FBI investigation and federal prosecution are appropriate, a case should be initiated.

(4) Violent Crimes/Fugitive Unit, Criminal Investigative Division, is responsible for these cases at FBIHQ.

EFFECTIVE: 11/25/96

9-6 NOTIFICATION OF VIOLATIONS TO FBIHQ - GENERAL

(1) In all cases where the victim is a Federal, state or local government official, FBIHQ must be initially notified by telephone, teletype or airtel enclosing a summary LHM, depending upon the exigency of the matter. Refer also to Part I, Section 175, of this manual, for specific FBI/USSS agreements regarding dissemination policy and format to be used.

(2) If initial notification to FBIHQ is by telephone, a confirming teletype must be promptly submitted.

(3) The format of the teletype should be suitable for dissemination.

(4) Telephone and/or teletype notification is also required where:

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- (a) The media is affording coverage.
  - (b) The victim has high public exposure.
  - (c) The victim is a company dealing with the manufacture, distribution or sale of goods consumed by the public and the threat involves the adulteration of its product.
- (5) In all other extortions, the exigency of the matter will dictate notification to FBIHQ.
- (6) The notification teletype should set forth the facts, as known, to include a succinct summary of the contents of the extortionate letter. If the extortion message is short, i.e., not more than two pages of a teletype, it should be quoted in its entirety in the initial teletype to the Bureau.
- (7) In minor unaggravated cases where the USA declines prosecution, FBIHQ notification is not required. Promptly confirm the USA's opinion in writing and close such matters.

EFFECTIVE: 02/16/89

9-7 INVESTIGATIVE PROCEDURES

- (1) Upon receipt of a complaint, a preliminary inquiry is to be conducted to ascertain the existence of a federal violation within the Bureau's jurisdiction. This inquiry should include an immediate, thorough interview of the addressee/victim of the extortion.
- (2) Promptly notify FBIHQ by telephone, teletype, airtel or letter, as exigencies dictate, of all extortion complaints where active investigation is to be conducted and where dissemination is made locally to an agency and FBIHQ must also disseminate the information at the headquarters level. (See 9-5.3, 9-5.4 and 9-6.)
- (3) The original extortion letter is to be promptly forwarded by airtel to FBIHQ, Attention: Laboratory Division, for examination. A copy of the letter should also be designated for the Violent Crimes/Fugitive Unit, Criminal Investigative Division (CID). The cover airtel should briefly set forth the facts of the case and specifically request the types of Laboratory Division examinations

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desired. Refer to Part II, Section 13, of this manual, entitled "Laboratory Division Aids to Investigations," and Part II, Section 15, of this manual, entitled "Latent Fingerprint Identification," for the types of analyses available through the Laboratory Division.

(4) Identification of those who have handled the extortion letter is necessary so that elimination fingerprints can be obtained for later reference. The unavoidable handling of the letter or document before it comes into the possession of the field office should not preclude the requesting of latent fingerprint examinations. However, appropriate handling instructions should be given to those who may receive subsequent letters from the extortionist so that minimal handling of the evidence occurs.

(5) Deleted

(6) The medium by which an extortionate message is conveyed to the victim may include telephone calls, tape recordings and videotapes. Analyses can be conducted by the Laboratory and Information Resources Divisions on these types of evidence. Refer to Part II, 16-8, of this manual, for details of examinations which can be conducted on this evidence.

(7)



(8)



(9) If the President and/or Vice President of the United States is(are) the intended victim(s) of the extortion, refer to Part I, Section 175, of this manual, for proper handling. (Title 18, USC, Section 871, is under the exclusive jurisdiction of the USSS.)

(10) FBIHQ should be advised prior to initiating an investigation of possible violations of the Extortion Statute wherein local police officers and ranking public figures in state or local government are victims. The reason for this is that most extortion matters are also violations of applicable local or state laws. If

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requested, the FBI will defer investigation of those matters involving local police officers and ranking public figures in state or local government to the appropriate local or state law enforcement agency.

EFFECTIVE: 03/21/95

9-7.1

(1)

(2)

EFFECTIVE: 02/27/95

9-7.2

(1)

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FEDERAL BUREAU OF INVESTIGATION  
FOIPA  
DELETED PAGE INFORMATION SHEET

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- ☒ Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

Section 552

Section 552a

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☐ (j)(2)

☐ (b)(3)

☐ (b)(7)(C)

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☐ (b)(8)

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☐ (b)(6)

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MIOG Manual Section 9-7, 2 pages 9-15 and 9-16

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(5)

EFFECTIVE: 09/17/97

| 9-8 REPORTING REQUIREMENTS

(1) In all matters where the preliminary inquiry results in a full investigation being conducted and where the USA's Office has advised it will prosecute the identified subject(s), a prosecutive report must be prepared. See Manual of Administrative Operations and Procedures, Part II, 10-14 and 10-15, for reporting formats.

(2) In cases where the investigation develops a subject and the USA's Office declines prosecution or defers prosecution to local or state authorities, a report is not required. However, in the event that local/state authorities rely heavily on the FBI investigation, a prosecutive report is the best format for trial preparation and subsequent Agent testimony. Secure USA approval before disseminating such prosecutive reports to local or state authorities.

(3) If dissemination to another Federal agency (USSS, USMS, Executive Office of USAs, etc.) has been made, extra copies of the prosecutive report should be designated for FBIHQ to disseminate. If headquarters level dissemination is not necessary, submit only one copy of the prosecutive report to FBIHQ.

(4) In all other cases a report is not required and the case must be closed by memorandum, letter, airtel, etc. If FBIHQ was advised of the case, ensure FBIHQ files are completed by notification that the matter is closed. This may be accomplished in three ways:

(a) In unknown subject cases by letter or airtel.

(b) In cases where the USSS or another agency was notified, ensure a succinct letterhead memorandum of the investigative effort is disseminated to that agency and an original plus three copies of the LHM are sent by cover airtel to FBIHQ. FBIHQ will disseminate one copy of the letterhead memorandum to each concerned agency at the headquarters level.

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(c) In cases where the Federal or local prosecutive process results in the generation of an "Accomplishment Report" (FD-515), the case may be closed by submission of this form when the final outcome of the judicial process is known.

EFFECTIVE: 03/28/84

9-9 NUCLEAR EXTORTION

(1) FBIHQ is to be notified by telephone of all extortions wherein a nuclear or radiological device or nuclear weapon is involved. In addition to all logical extortion investigative steps, refer to Part I, 117-7, of this manual, for additional investigative steps which must be followed.

(2) Telephonic notification is to be followed promptly by teletype.

(3) If FBIHQ assistance is needed in a nuclear extortion matter, contact should be made directly with the Domestic Terrorism Unit, Violent Crimes and Major Offenders Section, CID.

EFFECTIVE: 05/25/93

9-10 BIOLOGICAL EXTORTION (See MIOG, Part I, Section 279.)

EFFECTIVE: 06/18/97

9-11 VENUE

General - Venue generally is governed in Extortion matters by Title 18, USC, Section 3237. This section states venue lies in any district from, through, or into which commerce or mail moves.

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EFFECTIVE: 07/23/90

9-12 CHARACTER

(1) Extortion.

(2) Deleted

(3) When an extortion arises out of a situation wherein the threat involves a credible nuclear threat such as a nuclear weapon or radiological dispersal device, the case should be investigated as an Atomic Energy Act (AEA) matter in the Domestic Terrorism Program. The character of such cases should be carried as: AEA-Extortion. FBIHQ should be promptly informed of these types of cases so that contacts may be made with the appropriate federal agencies to determine the credibility of the threat. If the threat assessment and subsequent investigation determines the threat is a hoax, OO has the option of continuing its investigation as an AEA matter or converting it to an extortion matter under the 9 classification. See Part I, Section 117, of this manual, for additional details regarding AEA-Extortion matters.

(4) Blanket acceptance of referred Interstate Domestic Violence/Interstate Violation of a Protection Order matters is to be avoided. However, where a viable federal case exists and FBI investigation and federal prosecution are appropriate, a case should be initiated. The character should be carried as: Extortion - Interstate Domestic Violence OR Extortion - Interstate Violation of a Protection Order.

EFFECTIVE: 06/18/97

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SECTION 10. RED CROSS ACT

10-1 STATUTES

Title 18, USC, Section 706 and 917.

EFFECTIVE: 01/31/78

10-1.1 Section 706 (Red Cross)

EFFECTIVE: 01/31/78

10-1.1.1 Elements

- (1) Whoever, corporation, association or person
- (2) fraudulently wears or displays
- (3) the sign or insignia or colored imitation of the Greek Red Cross on a white ground
- (4) or the words Red Cross or Geneva Cross
- (5) to induce the belief that party is an American Red Cross member or agent.

EFFECTIVE: 01/31/78

10-1.2 Section 917 (Red Cross Members and Agents)

EFFECTIVE: 01/31/78

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10-1.2.1 Elements

- (1) Whoever, within the United States
- (2) fraudulently represents himself
- (3) as an American Red Cross member or agent
- (4) to solicit, collect or receive money or material.

EFFECTIVE: 01/31/78

10-2 POLICY

(1) Present results preliminary investigation to USA to obtain view toward criminal prosecution on basis allegations will be developed by complete investigation, or advise regarding any other action. (USA may decide subjects be requested to desist practices, instead of requiring full investigation.)

- (2) Inform local Red Cross disposition of investigation.
- (3) Investigations conducted similar to impersonation matters.

EFFECTIVE: 01/31/78

10-3 PENALTIES

- (1) Section 706 - \$250 fine and/or six months imprisonment.
- (2) Section 917 - \$500 fine and/or one year imprisonment

EFFECTIVE: 01/31/78



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10-4 INVESTIGATIVE PROCEDURE

(1) Determine from local representative Red Cross whether subject actually member or agent of Red Cross.

(2) If local Red Cross cannot definitely declare whether subject member or agent Red Cross, make further check with national headquarters of American National Red Cross, Washington, D. C., through Washington|Metropolitan|Field Office.

EFFECTIVE: 10/16/90

10-5 CHARACTER - RED CROSS ACT

EFFECTIVE: 10/16/90

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SECTION 11. TAX (OTHER THAN INCOME)

11-1 TAX (OTHER THAN INCOME)

The Miscellaneous Tax Unit of the Internal Revenue Service administers the internal revenue laws as they apply to other than alcohol, social security, and income and profits taxes, preparing regulations in connection therewith, receiving, auditing, and verifying the returns, and reviewing and disposing of claims for refund and abatement. Complaints coming within this category are handled at FBIHQ and in the field according to the same system set forth in Section 5, Income Tax, in this manual.

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SECTION 12. |DRUG DEMAND REDUCTION|

12-1 DRUG DEMAND REDUCTION PROGRAM (DDRP) BACKGROUND  
AND POLICY

| (1) BACKGROUND ON THE DRUG DEMAND REDUCTION PROGRAM AND  
THE COMMUNITY OUTREACH PROGRAM

(a) In 1988, the Drug Demand Reduction Program (now known as the Community Outreach Program) was created to augment the enforcement efforts of the FBI as a long-term solution to the drug abuse problem. The program called for a mature and experienced Special Agent to serve as a Drug Demand Reduction Coordinator (DDRC) in each of the FBI's field offices nationwide. In public appearances and speaking engagements, DDRCs promoted the FBI's role in drug enforcement and demand reduction. DDRCs' duties included:

1. fostering appropriate communication between the FBI's law enforcement and prevention initiatives;
2. establishing a network of resources throughout their territories;
3. disseminating prevention materials;
4. facilitating prevention programs, speeches, events, etc.; and
5. coordinating the development and growth of regional programs with FBIHQ to ensure maximum economy and effectiveness.

Recognizing the interdependency of children, parents, other adults, community groups, businesses, schools, social services, and health services, the FBI focused its DDRP efforts on three areas: the community, the schools, and the workplace. In connection with these activities, the FBI entered into prevention programs or partnerships with several national and local organizations.

(b) Since 1990, the Community Outreach Program focused its efforts primarily on socioeconomic and disadvantaged youth from impoverished inner-city and rural areas. The FBI's Adopt-A-School Program, including the Junior Special Agent, Mentoring, and

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Tutoring programs, was created as a means of reaching out to these at-risk youths. Other Community Outreach Program initiatives included sponsoring little league baseball, softball, soccer, and/or basketball teams for inner-city disadvantaged youth, providing instructors for criminal justice classes, and conducting training for security personnel. FBI senior managers attended community town hall meetings and met regularly with community and business leaders. Through these interactions, the Community Outreach Program developed partnerships with national and local organizations. In 1994, the FBI's Citizens' Academy was established and merged under the umbrella of the COP.

(2) COMBINING THE DRUG DEMAND REDUCTION PROGRAM AND THE COMMUNITY OUTREACH PROGRAM

(a) Linking community service, drug abuse prevention, and law enforcement is a major national trend as grass roots efforts have brought about federal government support for public safety initiatives. The Director's memorandum, dated November 9, 1993, combined the Drug Demand Reduction Program (DDRP) and the Community Outreach Program (COP) under the authority of the Victim-Witness/Community Outreach Unit, Criminal Investigative Division (CID). The Assistant Director of CID is responsible for program oversight. The combined program, called the Community Outreach Program, includes all Adopt-A-School, Junior Special Agent, Mentoring, and Tutoring programs, as well as crime, drug, gang, and violence prevention efforts.

(b) Effective September 2, 1994, the Drug Demand Reduction Coordinator's position was converted from Special Agent to professional support personnel. However, due to the nature of the work and high profile of the program, certain circumstances may require a Special Agent to accompany the COP Specialist. Therefore, while the coordinator position is now filled by a support employee, it may be necessary to assign a Special Agent to work in concert with the COP Specialist. For example, when safety concerns arise, or when an experienced law enforcement officer's perspective is required, then the use of Special Agent personnel is justified.

(3) PROGRAM DUTIES AND RESPONSIBILITIES

(a) The COP Specialist will be responsible for FBI community-related efforts, including developing/training volunteers, tracking the budget, scheduling activities, submitting the annual report, coordinating the FBI's Citizens' Academy, and providing resources.

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(b) Each SAC will decide whether or not to assign a support employee part or full time to the COP Specialist position.

(c) Each field division will assess the needs of its territory and deliver a fitting product (see COP Specialist's Manual for component models). Each division may choose to emphasize certain programs or even merge some, or all, into one. It is expected that each field division will be unique, yet will follow the policy and guidelines set forth by FBIHQ. Following are three basic examples of how a field division might implement the COP (many other variations are possible):

1. Continue its long-standing commitments in the schools, the workplace, and the community.

2. Concentrate its resources in Adopt-A-School, Junior Special Agent, Mentoring, and Tutoring programs, community and organization partnerships, and youth sports programs.

3. Formulate partnerships with organizations, such as the Urban League or the League of United Latin American Citizens to educate youth and young adults in anti-gang, -drug, and -violence initiatives, local Boys and Girls Clubs of America through the SMART MOVES, establishing an FBI Citizens' Academy, and assisting community neighborhood watch associations.

(4) REPORTING PROCEDURES

(a) Each field division is required to submit an ANNUAL report summarizing its COP activities to FBIHQ marked to the Attention of the Victim-Witness/Community Outreach Unit, CID.

(b) The annual accomplishments report must be furnished on a timely basis, adhering to the following schedule:

REPORTING PERIOD	DATE DUE
January 1 through December 31	January 20

(c) The annual accomplishments report should contain the following:

1. A summary of the COP activities for the reporting period. The COP components chosen by the field division

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should be set forth and adequately described. DO NOT merely submit a list of where and when presentations were given, but summarize each component briefly and give examples of how your division implemented the COP. See the COP Specialist's Manual for an example.

2. Statistics on volunteerism to determine the strength of overall field support for the COP and to meet reporting requirements for the Department of Justice. See the COP Specialist's Manual for a sample format.

3. The annual report must include a plan for spending (budget formulation) for the next fiscal year. See the COP Specialist's Manual for an example.

4. An itemized accounting of acquisitions and other expenses (budget execution). See the COP Specialist's Manual for a sample format.

5. Requests for enhancements should be requested on an as-needed basis. For approval, enhancement requests must be justified in writing. Field division budget allotments are based on historical spending patterns and justifications.

(d) The annual report is important and necessary for a variety of reasons, including:

1. The "Annual COP Report," which is provided to each field division, other government agencies, the law enforcement community, and the general public.

2. SAC evaluations and inspection reports.

3. Field division budget allotments.

4. Innovative, resourceful, and creative efforts, which can then be shared with other COP Specialists or possibly developed into a regional or national program.

5. Special studies or responses to special requests from other FBI entities, government agencies, law enforcement, academicians, and the general public.

(5) POLICY AND GUIDELINES

(a) FBI Name, Seal, Initials, and the COP Logo - see COP Specialist's Manual for details.

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1. Use of the FBI name, seal, initials, and the COP logo must be closely monitored to ensure their use falls within guidelines set forth by law, regulation, and FBI policy.

2. Use of the FBI name, seal, initials is regulated by Title 18, United States Code, and Title 41, Code of Federal Regulations.

3. All promotional campaigns must have written FBIHQ authority to use the FBI name, seal, initials, and/or the COP logo. The authority to grant approval lies with the Employee Benefits Unit (EBU), Personnel Management and Benefits Section, Personnel Division. Requests for approval are submitted to FBIHQ COP which redirects them to EBU on a case-by-case basis.

(b) COP Spending Guidelines - see the COP Specialist's Manual for details.

1. Each field division's COP funds are included as part of its overall supply budget and are to be used for COP supplies, conference space, and/or honorariums.

2. When using COP funds, both the COP item number [REDACTED] and the subobject classification number [REDACTED] MUST be indicated. b2

3. Each field division may expend up to \$500 on a project without prior FBIHQ approval. All expenditures over \$500 MUST be requested via electronic communication to FBIHQ for approval. The funds may be expended following receipt of written approval.

4. All COP expenditures must follow routine procurement policies and procedures.

5. Under procurement regulations, COP funds are to be spent on items for "target" groups. Items MUST exhibit a drug-free message and have a purchase value of \$5 or LESS.

6. Under procurement regulations, ONLY representation funds can be used to purchase food, clothing, or items for liaison and tokens of appreciation (e.g., certificates and plaques). COP funds CANNOT be used for such purchases.

7. All travel and per diem expenses associated with COP MUST be funded from the field division's travel budget, NOT

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from COP funds.

(c) Working with Celebrities - Celebrity reputations are fragile. Unforeseen events sometimes change a celebrity's public acceptance to one of public dislike and even condemnation. For this reason, FBIHQ COP discourages association with celebrities.

(d) Fundraising - "The FBI cannot accept funding (resources) from any source other than Congress or from sources approved by Congress" (Prohibition: Title 31, USC, Section 484).

1. The FBI name, seal, initials, COP logo, manpower, or funds are not to be used to assist private entities in their fundraising activities, regardless of the worthwhile nature of the event.

2. FBI employees are to refrain from fundraising activities for COP purposes.

3. FBI employees are to refrain from supplementing the COP budget at their own expense.

EFFECTIVE: 09/19/97

12-2 CHARACTER - DRUG DEMAND REDUCTION

This character was formerly "DRUGS" and was changed to "DRUG DEMAND REDUCTION PROGRAM" in 1993. The character was again changed to "DRUG DEMAND REDUCTION" in Fiscal Year 1998 when it was combined with the Community Outreach and Victim/Witness Assistance Programs. To find historical versions of the old 12 classification known as "DRUGS," contact the Manuals Desk. Instructions for investigations of drug violations are located in MIOG, Part I, Section 281.

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SECTION 14. SEDITION

14-1 STATUTES

Title 18, USC, Sections 2387, 2388, and 2391

EFFECTIVE: 01/31/78

14-1.1 Section 2387 - Activities Affecting Armed Forces Generally

"(a) Whoever, with intent to interfere with, impair, or influence the loyalty, morale, or discipline of the military or naval forces of the United States:

"(1) advises, counsels, urges, or in any manner causes or attempts to cause insubordination, disloyalty, mutiny or refusal of duty by any member of the military or naval forces of the United States; or

"(2) distributes or attempts to distribute any written or printed matter which advises, counsels, or urges insubordination, disloyalty, mutiny, or refusal of duty by any member of the military or naval forces of the United States...Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both, and shall be ineligible for employment by the United States or any department or agency thereof, for the five years next following his conviction.

"(b) For the purposes of this section, the term 'military or naval forces of the United States' includes the Army of the United States, Navy, Air Force, Marine Corps, Coast Guard, Naval Reserve, Marine Corps Reserve, and Coast Guard Reserve of the United States; and, when any merchant vessel is commissioned in the Navy or is in the service of the Army or the Navy, includes the master, officers, and crew of such vessel."

EFFECTIVE: 01/31/78

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14-1.2 Section 2388 - Activities Affecting Armed Forces During War

"(a) Whoever, when the United States is at war, willfully makes or conveys false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States or to promote the success of its enemies; or

"Whoever, when the United States is at war, willfully causes or attempts to cause insubordination, disloyalty, mutiny, or refusal of duty, in the military or naval forces of the United States, or willfully obstructs the recruiting or enlistment service of the United States, to the injury of the service of the U. S., or attempts to do so...Shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both.

"(b) If two or more persons conspire to violate subsection (a) of this section and one or more such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in said subsection (a).

"(c) Whoever harbors or conceals any person who he knows, or has reasonable grounds to believe or suspect, has committed, or is about to commit, an offense under this section, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

"(d) This section shall apply within the admiralty and maritime jurisdiction of the United States, and on the high seas, as well as within the United States."

EFFECTIVE: 01/31/78

14-1.3 Section 2391 - Temporary Extension of Section 2388

"The provisions of Section 2388...in addition to coming into full force and effect in time of war shall remain in full force and effect until six months after the termination of the national emergency proclaimed by the President on December 16, 1950...or such earlier date as may be prescribed by concurrent resolution of the Congress, and acts which would give rise to legal consequences and penalties under Section 2388 when performed during a state of war shall give rise to the same legal consequences and penalties when they are performed during the period above provided for."

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EFFECTIVE: 01/31/78

14-2 DEPARTMENTAL OPINIONS

(1) To assist in determining types of utterances which fall within prohibition of sedition statutes, Department of Justice has designated following types of statements as being within prohibition of statutes:

(a) False statements of facts in time of war intended to interfere with the prosecution of war

(b) Utterances in time of war which cause or attempt to cause insubordination in armed forces

(c) Utterances which have the direct effect of obstructing enlistment or the operation of the draft

(d) Advocacy of armed revolt or overthrow of Government by force and violence

(2) Above types of utterances not considered all-inclusive of possibilities presented by sedition statutes but only guides.

EFFECTIVE: 01/31/78

14-3 POLICY

(1) Department of Justice has advised that United States Attorneys (USAs) are not to authorize prosecution without prior departmental authority in each individual case; therefore, no request should be made of USA for institution of prosecution. Department has instructed, however, that in all cases involving sedition in which facts justify consideration, copies of reports should be designated for the office of interested USA.

(2) Copies of reports will be referred to Department by FBIHQ for decisions relative to prosecution. Should the USA authorize prosecution, proceed in accordance with his instructions since it is presumed he will have complied and obtained prior authorization. Where such prosecutive action is authorized by a local USA and no advice from FBIHQ has been received indicating knowledge that this action has been

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approved by the Department, immediately advise by telephone or teletype of action taken. In order that FBI can properly discharge its obligation to investigate all cases involving the distribution of seditious literature and be aware of all such publications, make necessary arrangements to be advised of all publications in your district which might be considered seditious. Within 24 hours after seditious article reaches general public, each field office must prepare teletype summary of article for FBIHQ which must be followed by two copies of publication in which it appeared. Such articles will be of type which reflect race prejudice, anti-Semitism and material tending to cause disunity. Cover all meetings of organizations engaged in seditious activities and bring to attention of FBIHQ statements of seditious nature or having propaganda significance by most expeditious means warranted.

EFFECTIVE: 01/31/78

14-4 INVESTIGATIVE PROCEDURE

EFFECTIVE: 01/31/78

14-4.1 General

- (1) Ascertain whether persons involved are civilian or uniformed personnel of Army, Navy, or Air Force.
- (2) Ascertain whether offense occurred on military or naval establishment, reservation, base, field, port or harbor, under jurisdiction of Army, Navy or Air Force or on merchant vessel commissioned in Navy or in service of Army or Navy.
- (3) If so, communicate facts to proper official of Army or Navy or Air Force and conduct no investigation until a request is received through proper channels.
- (4) General investigation should seek to establish identity and location of all witnesses. All persons present when words spoken should be interviewed immediately and made matter of record before lapse of time may impair effectiveness and probative value of their testimony.
- (5) Important to establish in greatest detail factual setting in which language was used since necessary part of proof in sedition case.

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(6) If member of armed forces present, ascertain name, address, rank, branch of service and serial number. If men having obligations under Selective Service Act present, ascertain locality, birth and selective service status of each witness in addition to other identifiable information. Efforts should be made to determine whether or not speaker was aware of presence of member of armed forces or persons having obligation under draft laws.

(7) If speech was public in nature and delivered to audience, ascertain in detail circumstances under which made. Inquiry should establish whether speech was delivered extemporaneously or from prepared script. Inquiry should include date, time and place of occurrence, as well as chronology of events leading up to utterance of seditious statements. Ascertain age, sanity, sobriety and general demeanor of speaker. Manner in which words spoken has important bearing on speaker's intent and must be clearly established before facts will warrant prosecution. Determine if words addressed generally to all persons within sound of speaker's voice were spoken without prompting or in response to a question and determine whether words expressed in a deliberate manner or in temperamental outburst.

(8) Witnesses should be asked to evaluate effect of language upon persons addressed. Inquire whether result of words was to arouse patriotic ardor of listeners or whether its effect was demoralizing.

(9) Determine whether alleged seditious words have been repeated by other persons since they were first uttered and with what results.

(10) Bear in mind possibility that this investigation may uncover other violations of existing statutes, such as failure to comply with postal regulations, income tax or registration law requirements.

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14-4.2 Written or Printed Words

(1) Investigation of seditious statements appearing in written or printed material should include inquiries extending beyond analysis and examination of alleged seditious expressions themselves.

(2) If statements appear in a publication regularly issued, obtain copies of the publication circulated before and after issue in question and analyze from standpoint of ascertaining its seditious content and establishing criminal intent of prospective defendants.

(3) Analysis of seditious statements should seek to determine whether statements are in fact original or plagiarized reproduction or quotation from other sources.

(4) In some cases, it may be necessary to examine content of each issue for a period of several months to develop seditious character of publication. In such cases, analysis of any one issue may fail to disclose clearly seditious statements, whereas quantitative analysis of number of issues may establish constant emphasis and frequent repetition of same themes. Half-truths, continual slanting of facts, habitual dishonest presentation and interpretation of world and national events are cumulative in effect and may be seditious as a matter of law. Efforts should be made to establish repetition of same themes and same treatment of them in number of issues.

(5) Completely identify group or organization responsible for authorship, printing, and publication of printed or written material in question. Inquiry should not overlook possible collaboration, sponsorship, support, and financial assistance of outside individuals and other organizations. Consider possibility of subsidy and influence by foreign sources.

[REDACTED]

(6)

[REDACTED]

(7)

[REDACTED]

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(8) [REDACTED]

(9) [REDACTED]

(10) Under first offense defined in Title 18, USC, Section 2388, dealing with false reports or statements, courts have held not necessary to prove such false reports or statements were made to persons who are or are liable to become members of the military forces.

(11) [REDACTED]

b2/b7E

(12) [REDACTED]

(13) [REDACTED]

(14) [REDACTED]

(15) [REDACTED]

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14-5 VENUE

Department has advised no sedition case has raised question of venue. Venue must in all cases be determined by Office of U. S. Attorney.

EFFECTIVE: 01/31/78

14-6 PENALTIES - MAXIMUM

(1) Section 2387 - \$10,000 or 10 years, or both, and ineligibility for Government employment for five years after conviction.

(2) Section 2388 - \$10,000 or 20 years, or both. Harboring - \$10,000 or 10 years, or both.

EFFECTIVE: 01/31/78

14-7 CHARACTER - SEDITION

(1) Where reports are prepared involving possible violation of sedition statutes and Selective Service Act, following rule as to character of case is to apply:

(a) Where individual endeavors to counsel, aid, or abet another individual to evade provisions of Selective Service Act, case should be carried under character, "Selective Service Act."

(b) Where an organization counsels, aids, or abets a group of individuals, character should be shown as "Selective Service Act - Sedition."

EFFECTIVE: 01/31/78



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SECTION 15. THEFT FROM INTERSTATE SHIPMENT

15-1 STATUTES

Title 18, USC, Section 659

Title 18, USC, Section 660

Title 18, USC, Section 2117

EFFECTIVE: 01/31/78

15-1.1 Section 659

"Whoever embezzles, steals, or unlawfully takes, carries away, or conceals, or by fraud or deception obtains from any pipeline system, railroad car, wagon, motor truck, or other vehicle, or from any tank or storage facility, station, station house, platform or depot or from any steamboat, vessel, or wharf, or from any aircraft, air terminal, airport, aircraft terminal or air navigation facility with intent to convert to his own use any goods or chattels moving as or which are a part of or which constitute an interstate or foreign shipment of freight, express, or other property; or

"Whoever buys or receives or has in his possession any such goods or chattels, knowing the same to have been embezzled or stolen; or

"Whoever embezzles, steals, or unlawfully takes, carries away, or by fraud or deception obtains with intent to convert to his own use any baggage which shall have come into the possession of any common carrier for transportation in interstate or foreign commerce or breaks into, steals, takes, carries away, or conceals any of the contents of such baggage, or buys, receives, or has in his possession any such baggage or any article therefrom of whatever nature, knowing the same to have been embezzled or stolen; or

"Whoever embezzles, steals, or unlawfully takes by any fraudulent device, scheme, or game, from any railroad car, bus, vehicle, steamboat, vessel, or aircraft operated by any common carrier moving in interstate or foreign commerce or from any passenger thereon

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any money, baggage, goods, or chattels, or whoever buys, receives, or has in his possession any such money, baggage, goods, or chattels, knowing the same to have been embezzled or stolen. . . "

EFFECTIVE: 01/31/78

15-1.1.1 Elements

Elements of violations growing out of the embezzlement, stealing, or unlawful taking from any pipeline system, railroad car, wagon, motor truck, etc., of any goods or chattels moving as or which are a part of or which constitute an interstate or foreign shipment of freight, express, or other property.

(1) The theft or embezzlement violation:

(a) Goods or chattels moving as or which are a part of or which constitute an interstate or foreign shipment of freight, express, or other property in one of the places named in section 659.

(b) The goods or chattels have been embezzled, stolen, or obtained by fraud or deception.

(2) The buying, receiving, or possessing violation:

(a) Goods or chattels were moving as or were a part of or constituted an interstate shipment or foreign shipment of freight or express in one of the places named in the statute.

(b) The actual theft or embezzlement of same.

(c) Guilty knowledge on the part of the buyer, receiver, or possessor of such goods or chattels that they have been stolen or embezzled. Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that the property was stolen or embezzled, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

NOTE that in subparagraphs (1) and (2) above, the theft, embezzlement, etc., need not be from a vehicle operated by a common carrier. The Department is of the opinion that a theft, etc., of freight or express moving in interstate commerce taken from a consignor-owned or -controlled vehicle is within the above portions of section 659.

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(3) Elements of violations growing out of the embezzlement, theft, or unlawful taking or obtaining by fraud or deception of any baggage in the possession of any common carrier for interstate or foreign transportation:

(a) Baggage is in the possession of any common carrier for transportation in interstate or foreign commerce.

(b) The baggage has been embezzled, stolen, or obtained by fraud or deception.

(c) Baggage is in the possession of any common carrier for transportation in interstate or foreign commerce.

(d) Contents of same are broken into, or stolen, or concealed.

(e) Baggage is in the possession of any common carrier for transportation in interstate or foreign commerce.

(f) Baggage has been embezzled, stolen, broken into, or any of the contents have been stolen.

(g) Buying, receiving, or possessing such baggage or any article therefrom knowing the same has been embezzled or stolen. Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that the property was stolen or embezzled, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

(4) Elements of violations growing out of the embezzlement, theft, of unlawful taking by fraud of money, baggage, goods, or chattels from any railroad car, bus, vehicle, aircraft, etc., operated by any common carrier moving in interstate or foreign commerce or from any passenger thereon:

(a) The embezzlement, theft, or unlawful taking from a vehicle violation. Money, baggage, goods, or chattels have been embezzled, stolen, or unlawfully taken by a fraudulent device, scheme, or game from railroad car, bus, vehicle, or aircraft operated by any common carrier. The vehicle was moving in interstate or foreign commerce.

(b) The embezzlement, theft, or unlawful taking from

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a passenger violation. Money, baggage, goods, or chattels have been embezzled, stolen or unlawfully taken by a fraudulent device, scheme, or game from a passenger while that passenger was on any railroad car, bus, vehicle, steamboat, vessel, or aircraft operated by any common carrier and moving in interstate or foreign commerce.

(c) The buying, receiving, or possessing of such property violation. Money, baggage, goods, or chattels have been stolen or embezzled as outlined in (4)(a) and (4)(b) above. Guilty knowledge on the part of the buyer, receiver, or possessor of such goods that they have been stolen or embezzled. [Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that the property was stolen or embezzled, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).]

(5) The subsequent interstate or foreign transportation of such property:

Money, freight, express, baggage, goods, or chattels as have been stolen as outlined in either subparagraphs (1), (2), (3), or (4) above. The statute provides that such subsequent transportation shall constitute a separate offense and subject the offender to the penalties under the section for unlawful taking. Venue for such subsequent interstate transportation lies in any district into which such money, freight, etc., shall have been removed or into which the same shall have been brought by the offender.

EFFECTIVE: 10/23/95

15-1.1.2 Other Provisions

(1) Venue - The offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any district in which the defendant may have taken or been in possession of the said money, baggage, goods, or chattels.

(2) To establish the interstate or foreign commerce character of any shipment in any prosecution under this section the waybill or other shipping document of such shipment shall be prima facie evidence of the place from which and to which such shipment was made. The removal of property from a pipeline system which extends

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interstate shall be prima facie evidence of the interstate character of the shipment of the property.

(3) A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution under this section for the same act or acts. Nothing contained in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this section operate to the exclusion of State laws on the same subject matter, nor shall any provision of this section be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of the section or any provision thereof.

(4) The carrying or transporting of any such money, freight, express, baggage, goods, or chattels in interstate or foreign commerce, knowing the same to have been stolen, shall constitute a separate offense and subject the offender to the penalties under this section for unlawful taking, and the offense shall be deemed to have been committed in any district into which such money, freight, express, baggage, goods, or chattels shall have been removed or into which the same shall have been brought by such offender.

EFFECTIVE: 01/31/78

15-1.1.3 Possible Violations

(1) Those dealing with the embezzlement, theft, or unlawful taking of any goods or chattels from any pipeline system, railroad car, wagon, motor truck, or other vehicle, etc.

(a) The embezzling, stealing, or unlawful taking, carrying away, or concealing, or the obtaining by fraud or deception, from any pipeline system, railroad car, wagon, motor truck, or other vehicle or from any tank or storage facility, station, station house, platform, or depot, or from any steamboat, vessel, wharf, aircraft, air terminal, airport, aircraft terminal, or air navigation facility with intent to convert to his own use any goods or chattels moving as or which are a part of or which constitute an interstate or foreign shipment of freight, express, or other property.

(b) The buying, receiving, or possessing such goods or chattels knowing them to have been stolen or embezzled.

(c) The embezzling, stealing, or unlawful taking,

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carrying away, or obtaining by fraud or deception with intent to convert to his own use any baggage which shall have come into the possession of any common carrier for transportation in interstate or foreign commerce or the breaking into, stealing, taking, carrying away, or concealing any of the contents of such baggage or the buying, receiving, or possessing any such baggage or any article therefrom knowing the same to have been embezzled or stolen.

(d) The embezzling, stealing, or unlawful taking by any fraudulent device, scheme, or game from any railroad car, bus, vehicle, steamboat, vessel, or aircraft operated by any common carrier moving in interstate or foreign commerce or from any passenger thereon any money, baggage, goods, or chattels or the buying, receiving, or possessing such property knowing the same to have been stolen or embezzled.

EFFECTIVE: 01/31/78

15-1.2 Section 660

"Whoever, being a president, director, officer, or manager of any firm, association, or corporation engaged in commerce as a common carrier, or whoever, being an employee of such common carrier riding in or upon any railroad car, motor truck, steamboat, vessel, aircraft or other vehicle of such carrier moving in interstate commerce, embezzles, steals, abstracts, or willfully permits to be misapplied, any of the moneys, funds, credits, securities, property, or assets of such firm, association, or corporation arising or accruing from, or used in, such commerce, in whole or in part, or willfully or knowingly converts the same to his own use or to the use of another..."

EFFECTIVE: 01/31/78

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15-1.2.1 Elements

(1) Offenses by officers:

(a) A president, director, officer or manager of any firm, association or corporation engaged in interstate commerce as a common carrier.

(b) Embezzles, steals, abstracts, willfully misapplies, or willfully permits to be misapplied any of the moneys, funds, credits, securities, property or assets of such firm, association, or corporation arising or accruing from, or used in such commerce in whole or in part or willfully or knowingly converts, the same to his own use or to the use of another.

(2) Offenses by employees:

(a) An employee of any firm, association, or corporation engaged in commerce as a common carrier.

(b) Riding in or upon any railroad car, motor truck or steamboat, vessel, aircraft, or other vehicle of such carrier moving in interstate commerce.

(c) Embezzles, steals, abstracts or willfully misapplies or willfully permits to be misapplied, any of the moneys, funds, credits, securities, property, or assets of such firm, association, or corporation arising or accruing from or used in, such commerce in whole or in part, or willfully knowingly converts the same to his own use or to the use of another.

EFFECTIVE: 01/31/78

15-1.2.2 Other Provisions

(1) Venue - The offense shall be deemed to have been committed not only in the district where the violation first occurred but also in any district in which the defendant may have taken or had possession of such moneys, funds, credits, securities, property, or assets.

(2) "A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts."

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(3) The Department is of the opinion that under the employee's embezzlement portion of section 660 the vehicle must actually be moving in interstate commerce at the time the embezzlement occurs in order to constitute a violation. The Department also is of the opinion that the employee must be riding in or on one of the specified vehicles at the time of the embezzlement in order to have an offense.

EFFECTIVE: 01/31/78

15-1.2.3 Possible Violations

(1) Those dealing with embezzlements, etc., by officers of firm, association, or corporation engaged in commerce as a common carrier:

The embezzling, stealing, abstraction, willful misapplication, or willful consent to misapplication by a president, director, officer, or manager of any firm, association, or corporation engaged in commerce as a common carrier of any of the moneys, funds, securities, etc., of such firm, etc., arising or accruing from or used in such commerce, in whole or in part, or the willful conversion of the same to his own use or the use of another.

(2) Those dealing with embezzlements, etc., by employees of firm, etc., engaged in commerce as a common carrier riding in or upon conveyance of such carrier moving in interstate commerce.

EFFECTIVE: 01/31/78

15-1.3 Section 2117

"Whoever breaks the seal or lock of any railroad car, vessel, aircraft, motor truck, wagon or other vehicle or of any pipeline system containing interstate or foreign shipments of freight or express or other property, or enters any such vehicle or pipeline system with intent in either case to commit larceny therein. . . ."

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EFFECTIVE: 01/31/78

15-1.3.1 Elements

(1) Breaking or entering carrier facilities (seal- or lockbreaking)

(a) A seal or lock was unlawfully broken.

(b) The seal or lock was on a railroad car, vessel, aircraft, motor truck, wagon, or other vehicle, or of any pipeline system.

(c) The specified conveyance contained interstate or foreign shipments of freight, express, or other property.

(d) An intent to commit larceny in the specified conveyance.

(2) The railroad car, vessel, aircraft, pipeline system, etc., entering violation

(a) A railroad car, vessel, aircraft, pipeline system, etc., was entered.

(b) The specified conveyance contained interstate or foreign shipments of freight, express, or other property.

(c) An intent to commit larceny in the specified conveyance.

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15-1.3.2 Other Provisions

"A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution under this section for the same act or acts. Nothing contained in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this section operate to the exclusion of State laws on the same subject matter, nor shall any provision of this section be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of the section or any provision thereof."

EFFECTIVE: 01/31/78

15-1.3.3 Possible Violations

(1) Those dealing with the breaking of the seal or lock, and the entry therein

(a) The unlawful breaking of the seal or lock of any railroad car, vessel, aircraft, motor truck, wagon, or other vehicle or of any pipeline system containing interstate or foreign shipments of freight, express, or other property.

(b) The entry of such vehicle or pipeline system with intent in either case to commit larceny therein.

EFFECTIVE: 01/31/78

15-2 DEFINITIONS

(1) An interstate shipment is a shipment of freight, express, baggage, or any kind of shipment which begins in one state and ends in another, or which begins in one state and ends in the same state, if in getting to its destination it actually goes through another state.

(2) A foreign shipment is a shipment of freight, express, baggage, or any kind of shipment which begins in the U. S. and ends in a foreign country or vice versa.

(3) Interstate or foreign character of a shipment - the

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general rules is that a shipment becomes of interstate or foreign character when it is delivered into the custody and control of the carrier by the consignor. It retains its interstate or foreign character until actually delivered to the consignee, unless it remains undelivered an unreasonable length of time. If question exists as to whether stolen shipment was of interstate character at time of theft, embezzlement, etc., consult USA at outset of investigation.

(4) Hijacking - this term applies only where force is used, there is a display of violence or victim is put in fear, i.e., common-law definition of robbery.

EFFECTIVE: 06/09/80

15-3 INVESTIGATIVE PROCEDURE

EFFECTIVE: 06/09/80

15-3.1 Buyers, Receivers and Possessors

These provisions of the statute are aimed at "fences" who by their willingness to handle stolen goods foster thievery. It must be remembered that the taking section of the statute prohibits several things: (1) stealing; (2) embezzling; (3) unlawfully taking; (4) unlawfully carrying away; (5) unlawfully concealing; (6) obtaining by fraud or deception. The "fence" section prohibits three things: (1) buying; (2) receiving; (3) possessing such goods and chattels if accompanied by a knowledge that they have been previously stolen or embezzled. By the plain wording of this statute, if such goods and chattels have been originally removed from the interstate shipment by other means, such as obtaining them by fraud or deception there can be no conviction of the buyer, receiver or possessor, because he/she can't have knowledge they have been stolen when they haven't been stolen. But see Title 18, USC, Section 21, pursuant to which the element of guilty knowledge may also be established by proof that the defendant believed that the property was stolen or embezzled, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

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EFFECTIVE: 10/23/95

15-3.2 Guilty Knowledge

In receiving cases by far the most difficult and important investigative procedure is to prove the receiver knew or should have known from the circumstances that the property had been stolen or embezzled. There follow some suggestions for consideration:

(1) The testimony of the person who stole or embezzled goods, which is usually admissible as to the guilty knowledge of the person receiving, buying or possessing them.

(2) Circumstantial evidence, such as: the concealment of the goods; the fact that the goods had been recently stolen; similar prior activities of the accused; knowledge by the accused of the criminal tendencies of the thieves; payment by the accused of a price much lower than the well established market value of the goods; destruction by the accused of identification marks on the goods; and false statements by the accused as to the source from which he/she obtained the goods. (See MIOG, Part I, 87-4.4(3).)

(3) Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that the property was stolen or embezzled, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

EFFECTIVE: 10/23/95

15-3.3 Establishing the Interstate or Foreign Character of a Shipment

(1) Obtain copy of waybill or other shipping document. This is prima facie evidence of place from which and to which shipment made. Ascertain name and address of person who has custody of original waybill or other shipping document and can produce same in evidence. If not readily available, set out leads to obtain such documentation only in priority investigations or in cases wherein prosecution is anticipated.

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(2) If waybill or other shipping document cannot be located for production in evidence, endeavor to ascertain following:

Identities of individuals who packed, labeled, and checked stolen shipment; who transferred goods from consignor to carrier; who obtained bill of lading or receipt; who checked goods at receiving depot or terminal; who transferred goods from depot to car or vehicle; who sealed car; who were in charge of shipment during transportation.

EFFECTIVE: 06/09/80

15-3.4 Identification of Stolen Interstate Shipment

(1) Obtain complete description of stolen merchandise to assist in locating same and to establish subsequently that goods found in possession of suspect actually identical with stolen merchandise.

(2) Consignor may be able to assist in identifying recovered goods.

(3) If serial numbers or other positive identifying markings present, obtain same.

(4) Consider stops and circularization to effect recovery of goods.

(5) Difficult to obtain conviction unless some of stolen property recovered, though not impossible.

(6) Where stolen goods not susceptible of positive identification, do not discontinue investigation for this reason inasmuch as it may be possible to identify them by chain of witnesses who have had them in their possession since theft.

(7) In cases reported to Bureau long after theft occurred concerning property incapable of positive identification, extensive inquiries might not be warranted in absence of plausible leads pointing to thief.

(8) It is necessary to definitely establish by serial number or a chain of witnesses that the property in the possession of the receiver is the same property which has been previously stolen from an interstate shipment. In this connection, while the Federal

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strip tax stamps across the tops of individual whiskey bottles do not have individual serial numbers, they all do have serial numbers in groups bearing the same numbers. The possibilities of definitely identifying an individual bottle of whiskey, if all whiskey bottles bearing the same strip stamp number can be accounted for except those stolen, should not be overlooked. The whiskey bottling concern is the proper place to obtain data relative to the disposition of a certain series of strip stamps.

EFFECTIVE: 06/09/80

15-3.5 Hijacking

(1) Hijacked truck should always be processed for fingerprints.

(2) Interview driver of hijacked truck as soon as possible. Obtain complete statement, including any suspects|driver|has. View truck driver with suspicion if suspects not immediately developed. If any indication|driver|is involved, conduct background investigation concerning|driver|. Consider reinterview of truck driver after reasonable length of time. Consider physical surveillance of suspect truck driver.

(3) Conduct investigation at terminal from which hijacked truck dispatched for information concerning suspicious individuals. Be alert for collusion on part of terminal employees. In many hijackings and major thefts, the "finger man" will be employee or ex-employee of victim carrier.

EFFECTIVE: 06/09/80

15-3.6 Introduction of Waybills into Evidence

Title 28, USC, Section 1732, makes entries which are made in usual course of business admissible by their custodian. This may be valuable as to producing waybills, etc.

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15-3.7 Miscellaneous Procedures

(1) If violation consists of theft from vehicle of common carrier, or from passenger thereon, ascertain points of departure and destination of vehicle. Conductor of train, pilot of aircraft, etc., can usually furnish necessary evidence to prove interstate factor. If violation consists of practicing fraudulent scheme or game on passenger, such as crooked dice or marked cards, local police may be able to assist in furnishing suspects.

(2) If theft occurs from vehicle in transit, obtain identity of carrier employees who last noted shipment to be intact and who first found it stolen. This will assist in establishing point of theft.

(3) If violation consists of theft, embezzlement, etc., of goods from interstate shipment, necessary to prove corpus delicti by evidence of actual theft, embezzlement, etc. In some instances, interstate shipments are found short at destination as result of error by consignor, loss in transit or misdirection.

(4) If violation consists solely of unlawfully breaking the seal, matters should be promptly presented to the appropriate USA before conducting investigation. If prosecution authorized, search should be made for such seal. It may later be possible for FBI Laboratory to establish that knives or tools found in possession of suspects were used to break seal. In seal-breaking violation, remember that intent to commit larceny in vehicle is necessary element of offense. This is of particular importance if nothing stolen from pertinent vehicle. Ascertain identities of individuals who placed seal on vehicle and who last noted it intact. Endeavor to establish venue by ascertaining where seal broken.

EFFECTIVE: 06/09/80

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15-3.8 Modus Operandi

These thefts can be perpetrated in a number of ways, i.e., conversion of overage by truck driver, terminal employee secreting package in personally owned car, collusion between terminal employee and truck driver to load extra cartons on latter's vehicle, "tail gate" thefts, which may be thefts of opportunity by passer-by or perpetrated by organized ring whose members actually surveil trucks, checker using "fast count" to mislead driver and thus not turning over to driver all items called for by shipping documents, etc.

EFFECTIVE: 06/09/80

15-4 POLICY

(1) If complainant or victims are found to be local bootleggers, black-market operators, or racketeers, submit information to USA before continuing investigation.

(2) Where a theft from interstate shipment case has been first unsuccessfully investigated by local authorities or railroad police and then reported to the Bureau long afterwards, the same should be promptly closed if the subjects are unknown and no immediate leads to identify them are apparent. Also, in all such cases in which the subjects are unknown and there is no immediate indication they will become known, no effort should be made to obtain or report the so-called shipping data or any other information of purely jurisdictional import not connected with identifying the subjects.

(3) In all hijackings and in other theft from interstate shipment cases which are of major importance or of unusual interest, including all trailer loads and full container shipments, promptly advise FBIHQ of the pertinent facts and of the progress being made in the investigation. This notification should normally be made by teletype as soon as possible after the theft or hijacking is reported. In unusual instances, it may be deemed advisable to inform FBIHQ by telephone. The victim driver's name, date of birth, and results of office indices check should be included in the initial teletype. This in turn will be searched in Bureau indices and positive results furnished.

(4) Investigation of armed hijackings and trailer load thefts of interstate shipment cases to commence the "same day" after receipt of complaint; other TFIS cases should be handled according to



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the circumstances of the case and consistent with the local USA guidelines. This policy will not apply in those instances where the complainant has delayed reporting the theft or loss for several days or longer after determining that the property was stolen or missing. The latter complaints should be acknowledged telephonically or as otherwise appropriate and investigation initiated consistent with the facts of the complaint and manpower commitments.

(5) In cases involving Section 660, complainant will almost invariably be official or owner of victimized carrier. If subject, who in vast majority of cases will be truck driver, is readily available or can be located with reasonable effort, driver should be interviewed promptly. Case may then usually be presented to USA. Note under elements of Section 660 that this statute is narrow one. If it appears that extensive, drawn-out investigation will be necessary to locate suspect for interview, examine facts of complaint carefully to ascertain if violation present. If doubt exists, present to USA promptly.

(6) Upon receipt of a complaint involving a minor theft from interstate shipment where there are no known aggravating or unusual circumstances, immediately present the facts to USA for a prosecutive opinion or handle in accordance with existing blanket declination policy for TFIS violations. If USA will not consider federal prosecution, conduct no investigation. Refer matter to local law enforcement agency having jurisdiction over violation. So advise complainant and confirm with USA in accordance with procedural agreements. These cases should be handled from a control file in accordance with the procedure set forth in Buairtel to Albany dated 3/10/76, under the caption "Use of Personnel."

(7) The standards established under the "quality vs. quantity" concept should not preclude targeting instances of organized thievery involving a series of package thefts from the same carrier wherein experience has shown that such thefts can amount to a significant monetary loss in a short period of time.

(8) To ensure accurate retrieval of information, indexing standards require that the following data be set forth in the title of unsub, TFIS cases:

(a) Name of common carrier, or if unknown, the name of the consignee or consignor;

(b) Type of merchandise; e.g., televisions, liquor, etc.;

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and (c) Location where theft occurred (city and state);

(d) Date of theft, if known.

(e) Retail value of the merchandise. (Do not include the value of the tractor and/or trailer. These should be included in the body of the teletype.)

NOTE: The setting forth of VINs, serial numbers, model numbers, and license plate numbers in captions of TFIS cases should be avoided.

(9) In TFIS violations involving armored carrier/courier losses, an FD-430 must be submitted to FBIHQ, Attention: Violent Crimes/Fugitive Unit, Criminal Investigative Division, in duplicate, within 30 working days. Submission of the FD-430 will be required in all cases involving an armored carrier/courier loss regardless of the amount. Any investigation should continue to be consistent with current Bureau policy and local USA guidelines. The OO shall determine if regional or other field office notification is necessary. (See MIOG, Part I, 87-5.3.2(5), 91-3.2, 91-12.1, 91-12.2, & 192-11.2; MAOP, Part II, 9-6.)

(10) Effective January 1, 1985, the phrase "property or cargo" was added to the "Motor Vehicle" definition in Title 18, USC, Section 31 (DAMV Statute - Part I, 149-1.1.5 of this manual), to cover trucks. As a result, a person who destroys or damages a truck with intent to endanger the driver or another person on board, or with reckless disregard for their safety, can be prosecuted under Title 18, USC, Section 33 (DAMV). (See MIOG, Part I, 26-4.6 & 149-5.1.)

(a) DOJ has advised that expansion of the term "Motor vehicle" is not intended to "federalize" every attack upon a truck which endangers persons on board, and offices should develop prosecutive guidelines with respect to this statute through their law enforcement coordinating committees.

(b) Employees assigned TFIS investigations should be aware of the provisions of the above section since violations of this nature may be brought to their attention.

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EFFECTIVE: 01/08/96

15-5 LIAISON AND COVERAGE

This is one of the cardinal points in successful handling of theft from interstate shipment matters. Coverage must be established with carriers, local law enforcement agencies, railroad police, trucking associations, traffic groups, insurance companies, representatives of the Interstate Commerce Commission, etc., in order that violations will be reported to us promptly. The best means of maintaining such liaison is by periodic personal contact. Theft From Interstate Shipment posters, suitable for distribution to all types of carriers, are available at all times and may be obtained by requesting same from FBIHQ. These posters have been found to be effective in strengthening liaison with carriers, educating them as to our jurisdiction and deterring thievery.

EFFECTIVE: 02/16/89

15-6 PENALTIES

(1) Section 659 - A fine of not more than \$5,000 or imprisonment for not more than ten years, or both. If the amount or value of such money, baggage, goods, or chattels does not exceed \$100, the offender shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(2) Section 660 - A fine of not more than \$5,000 or imprisonment for not more than ten years, or both

(3) Section 2117 - A fine of not more than \$5,000 or imprisonment for not more than ten years, or both.

EFFECTIVE: 07/11/85

15-7 CHARACTER - THEFT FROM INTERSTATE SHIPMENT (TFIS)

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EFFECTIVE: 07/11/85

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SECTION 17. FRAUD AGAINST THE GOVERNMENT -  
DEPARTMENT OF VETERANS AFFAIRS  
(SEE MIOG, PART I, SECTION 46.)

| 17-1 | BACKGROUND

| The 17 classification was eliminated and reclassified in  
Fiscal Year 1996 as 46G (Fraud Against the Government - Department of  
Veterans Affairs). See MIOG, Part I, Section 46. |

EFFECTIVE: 07/31/97

| 17-2 | DELETED |

EFFECTIVE: 07/31/97

| 17-3 | DELETED |

EFFECTIVE: 07/31/97

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EFFECTIVE: 07/31/97

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| 17-3.1.1 | Deleted |

EFFECTIVE: 07/31/97

| 17-3.2 | Deleted |

EFFECTIVE: 07/31/97

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EFFECTIVE: 07/31/97

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EFFECTIVE: 07/31/97

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EFFECTIVE: 07/31/97

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| 17-3.3.1 | Deleted |

EFFECTIVE: 07/31/97

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EFFECTIVE: 07/31/97

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EFFECTIVE: 07/31/97

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EFFECTIVE: 07/31/97

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EFFECTIVE: 07/31/97

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SECTION 18. MAY ACT

18-1 STATUTE

Title 18, USC, Section 1384.

EFFECTIVE: 06/15/81

18-1.1 Section 1384. Prostitution Near Military and Naval Establishments

(1) "Within such reasonable distance of any military or naval camp, station, fort, post, yard, base, cantonment, training or mobilization place as the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or any two or all of them shall determine to be needful to the efficiency, health, and welfare of the Army, the Navy, or the Air Force, and shall designate and publish in general orders or bulletins, whoever engages in prostitution or aids or abets prostitution or procures or solicits for purposes of prostitution, or keeps or sets up a house of ill fame, brothel, or bawdy house, or receives any person for purposes of lewdness, assignation, or prostitution into any vehicle, conveyance, place, structure or building, or permits any person to remain for the purpose of lewdness, assignation, or prostitution in any vehicle, conveyance, place, structure or building, or part thereof, knowing or with good reason to know that it is intended to be used for any of the purposes herein prohibited shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

(2) "The Secretaries of the Army, Navy, and Air Force and the Federal Security Administrator (now Secretary of Health and Human Services) shall take such steps as they deem necessary to suppress and prevent such violations thereof, and shall accept the cooperation of the authorities of States and their counties, districts, and other political subdivisions in carrying out the purpose of this section."

(3) "This section shall not be construed as conferring on the personnel of the Departments of the Army, Navy or Air Force or the Health and Human Services any authority to make criminal investigation searches, seizures, or arrests of civilians charged with violations of this section."

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EFFECTIVE: 06/15/81

18-2 DEPARTMENTAL INSTRUCTIONS

The Department has pointed out:

(1) FBI has investigative jurisdiction over criminal violations of the act but not with policing responsibilities.

(2) In most cases violations of the act would also constitute violations of the state law and state and local law enforcement agencies have concurrent jurisdiction.

(3) Arrangements could be worked out with local police to carry out the necessary patrols and make arrests for petty individual infractions.

(4) This leaves the FBI the task of investigating organized violations of a major character.

EFFECTIVE: 06/15/81

18-3 MISCELLANEOUS

(1) Effective April 11, 1953, the Federal Security Administrator was abolished and all functions of the Federal Security Administrator were transferred to the Secretary of Health, Education and Welfare. The Department of Health, Education and Welfare was subsequently abolished and all functions of that department were transferred to the Department of Health and Human Services, effective May 4, 1980.

(2) It should be noted that violations of this statute occur primarily in time of war.

EFFECTIVE: 06/15/81

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18-4 POLICY

(1) The May Act is subject to invocation only by the Secretary of the Army, Secretary of the Navy, or Secretary of the Air Force. After invocation it is the FBI's responsibility to investigate violations of the May Act. Prior to invocation, the FBI has no responsibility under the act and accordingly makes no recommendation as to the desirability of invocation and expresses no opinions as to the necessity therefor.

(2) The Secretaries of the Army, the Navy, and the Air Force, and the Secretary for Health and Human Services are authorized and directed to take such steps as they deem necessary to suppress and prevent violations of the act and also to accept the cooperation of state, county and local authorities in carrying out the purposes of the act.

(3) The act shall not be construed as conferring on the personnel of the Army, Navy, or Air Force, or the Department of Health and Human Services any authority to make criminal investigations, searches, seizures or arrests of civilians charged with violation of the act.

(4) In the past the Federal Security Administrator (now Secretary of Health and Human Services), the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force have stipulated that a reasonable opportunity should be given local authorities in the vicinity of the military establishments to curb prostitution at those localities before the May Act is invoked. Whenever the May Act is invoked the SAC and all investigative personnel should be alert to point out to all interested parties that FBI investigations under the May Act are conducted pursuant to congressional enactment and are not to be interpreted as an indication of any desire on the part of the FBI to enter the field of local vice control.

EFFECTIVE: 06/15/81

18-5 VENUE

Judicial district wherein offense is committed.

EFFECTIVE: 06/15/81

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18-6 CHARACTER - MAY ACT

EFFECTIVE: 06/15/81

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SECTION 21. FOOD AND DRUGS

21-1 FOOD AND DRUGS

The Food and Drug Administration enforces the Food, Drug, and Cosmetic Act; Tea Act; Import Milk Act; Caustic Poison Act; and Filled Milk Act. Its activities are directed mainly toward promoting purity, standard potency, and truthful and informative labeling of the essential commodities covered by the provisions of these five acts, as well as not controlled depressant and stimulant drugs. Complaints of this nature received at FBIHQ are referred to the Commissioner of Food and Drug Administration, Washington, D. C. Similar complaints received in the field should be referred to the nearest field component of the Food and Drug Administration.

EFFECTIVE: 01/31/78

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SECTION 23. PROHIBITION

23-1 PROHIBITION

The Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury is charged with the administration of the laws relating to the manufacture, warehousing, and distribution of spirituous liquors, wines, fermented liquors, and industrial alcohol. Bootlegging activities and other violations of the alcohol tax laws which are reported to FBIHQ are referred to the Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, D. C. Similar complaints received by field offices should be reported to the nearest field representatives of the Bureau of Alcohol, Tobacco and Firearms.

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SECTION 25. SELECTIVE SERVICE ACT

25-1 STATUTES

Criminal Provisions, Title 50, App., USC; Reemployment  
Provisions, Title 38, USC, Sections 2021 - 2026

EFFECTIVE: 05/08/81

25-2 REGISTRATION

(1) On March 29, 1975, the President issued Proclamation 4360, which revoked all former proclamations providing for registration under the Military Selective Service Act, and terminated then existing Selective Service registration procedures. The Selective Service System ceased registrations effective midnight, April 1, 1975. Subsequently, all related registrant processing was also terminated, including issuance of replacement status cards, classification action of any kind, action by area offices regarding nonregistrants or late registrants.

(2) The below registration provisions were in effect prior to April 1, 1975, and should read in that context. These provisions predicate the basis for Selective Service investigations of registration violations before the above date.

(a) Male citizens of the United States who have attained the eighteenth anniversary of the day of their birth and have not yet attained the twenty-sixth anniversary of the day of their birth are required to register.

(b) Generally aliens admitted to the United States for permanent residence who are between the ages of 18 and 26 are required to register. Nonimmigrant aliens are not required to register for so long as they maintain that status.

(c) Persons on active duty in the Armed Forces, cadets and midshipmen at the service academies, members of the reserve components of the Armed Forces on procurement programs at a certain few military colleges, the curriculum of which has been approved by the Secretary of Defense, are not required to register while they

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certify and he must also designate the specific reason registration is not required of him.

EFFECTIVE: 07/18/86

25-3 INDUCTIONS

(1) The statutory authority to induct persons into the Armed Forces expired on July 1, 1973. This, of course, does not change the status of our investigations of those persons who did not comply with induction orders issued prior to July 1, 1973.

(2) The Military Selective Service Act and Selective Service regulations have not deleted all references to induction and if and when the Congress reestablishes the authority to induct, those references in the law and regulations will again be applicable.

(3) The major responsibilities of the Selective Service System at the present time are the maintenance of records and the retaining of the nucleus of a system which may be required in the event of future registration.

EFFECTIVE: 07/18/86

25-4 PARDON

(1) All persons who may have committed any offense between 8/4/64 and 3/28/73, in violation of the Military Selective Service Act (SSA) or any rule or regulation promulgated thereunder.

(2) All persons convicted of any SSA violation committed during the same period.

(3) All SSA violators who have taken citizenship in another country, and therefore, could have been excluded from returning to the United States. They may now return as visitors and apply for U.S. citizenship under the same regulations as any alien.

(4) All SSA offenders who participated in President Ford's clemency program. Any conditional clemency will now be made a full pardon.



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(a) Excluded from the Presidential Pardon are all those whose violation of the law involved force or violence and any employees of the Selective Service System who may have violated the SSA.

(b) The pardon also orders the Attorney General to drop all pending investigations against alleged SSA violators and not to initiate new investigations with the exception of the previously mentioned two exclusions.

EFFECTIVE: 02/16/89

25-5 INVESTIGATIVE PROCEDURES

(1) Since the reinstitution of the SSA, cases are referred by the DOJ simultaneously to the United States Attorney's (USA) Office having jurisdiction and to FBIHQ.

(2) Upon receipt of the DOJ referrals, the USA's Office sends a registered letter to the subject advising him of his failure to register with the Selective Service System (SSS) and being a possible violator of the Military Selective Service Act, Title 50, USC, Section 462(A).

(3) SSA cases are transmitted by FBIHQ to the field by cover airtel with the following instructions:

(a) Prior to the initiation of investigation, contact the Selective Service Data Management Center, Great Lakes, Illinois, to determine if captioned individual has registered since his case was referred to DOJ. This contact can be made using the Data Management Center toll-free number, which is included in each FBIHQ airtel sent to each field office.

(b) Consult with the USA's Office to determine if captioned individual has been contacted. DOJ instructions to USA suggest sending a registered letter to potential violators stating prosecution will be considered if registration is not accomplished. USA may request direct contact with captioned individual by an Agent.

(c) If captioned individual is indicted and prosecuted, submit an original and two (2) copies of prosecutive report to FBIHQ for dissemination.

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(d) Upon closing of case, regardless of reason, submit an original and three (3) copies of an LHM to FBIHQ for dissemination.

(4) Selective Service Act-Fraud Against the Government (SSA-FAG) and Selective Service Act-Failure to Register (SSA-FTR) matters - The Department of Education, Office of the Inspector General, Washington, D.C., conducts quality control studies and program reviews from which the number of registration-age student aid applicants are checked against Selective Service records. As a result, certain individuals are identified as student loan applicants who have certified that they are registered with the Selective Service System and who apparently have not registered. The Department of Education refers the names of alleged nonregistrants to the Department of Justice for investigation. The FBI will assume the lead role in these investigations under the supervision and direction of the Violent Crimes and Major Offenders Section, Criminal Investigative Division, FBI Headquarters.

Under Selective Service regulations, an individual is not deemed registered until the pertinent data is entered into the Selective Service master computer file, 32 C.F.R. Section 1615.1. Because of processing delays, it may take up to 60 to 90 days from the time a registration form is submitted to Selective Service until the data is actually entered into the master computer file. Thus, some of the student aid applicants referred for investigation may have submitted Selective Service registration forms but, because of processing delays, a record of registration might not be readily located.

(a) Bureau airtels initiating new SSA-FAG investigation cases will be sent to the field and will include identifying data for the nonregistrant subject, information on schools attended, and instructions for obtaining school records from regional offices of the Department of Education, Office of the Inspector General.

(b) Because of the delay in the processing of Selective Service registration forms, prior to any investigation contact should be made with the Selective Service Data Management Center (DMC), Great Lakes, Illinois, to determine if the subject has registered since the time his case was referred to the Department of Justice.

(c) Pursuant to Section 1113(b) of Public Law 97-252, if it is determined that any applicant was registered with Selective Service on or before June 30, 1983, no further investigation

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should be conducted and an original and three copies of an LHM containing results of inquiries should be submitted to FBIHQ for dissemination to the Department of Justice. With regard to applicants who are not registered or who registered after June 30, 1983, a complete investigation should be conducted with results submitted to the appropriate United States Attorney's Office and to FBIHQ for dissemination to the Department of Justice.

The Department's policy in failure-to-register investigations is to afford nonregistrants an opportunity to avoid prosecution by registering with Selective Service. It is the position of the Department, however, that this policy should not extend to situations where the failure-to-register offense has been compounded by a false-statement offense. Therefore, in conducting these investigations, care should be taken to ensure that no representations are made to the subject or his counsel that the investigation will be terminated if the subject registers prior to indictment.

(d) For administrative purposes, Selective Service Act cases involving failure-to-register violations only will be designated as Selective Service Act-Failure to Register (SSA-FTR) matters. Selective Service Act cases involving failure-to-register violations coupled with false-statement violations will be designated as Selective Service Act-Fraud Against the Government (SSA-FAG) matters.

EFFECTIVE: 02/16/89

25-5.1 General Procedures

(1) The subject's Selective Service file should be reviewed for information of lead value. Unnecessary effort and expense can be eliminated by a thorough review of the Selective Service file, and no other investigation should be conducted prior to this file review in the absence of good reason to the contrary. The Selective Service System at National Headquarters has stated that all of its files on violators who have been referred to a USA's office will be forwarded to its headquarters, Washington, D.C. Such a central repository will ensure a uniform policy as to access and protect the integrity of the files in the event a file is necessary for a court proceeding. Thus, any lead for the review of a Selective Service file on any of our subjects should be directed to the Washington|Metropolitan|Field Office, which will maintain liaison with Selective Service Headquarters.

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(2) According to the Selective Service System, the files on all other registrants will be destroyed upon the arrival of the twenty-sixth birthday of the registrants. Only the registration card, classification card and the classification record for nonviolators will be maintained at Regional Federal Record Centers. Our access to those records would also be sought via Selective Service Headquarters, based upon either the written approval of the registrant or the existence of pending prosecution of the registrant.

(3) During the aforementioned file review, and throughout the remainder of the investigation, Agents must be alert for evidence bearing upon the willfulness or lack thereof, of the violation. The USA must have a clear indication of the presence or absence of willfulness on the part of the violator in order to render a sound prosecutive opinion.

EFFECTIVE: 10/16/90

25-5.2 Placing Wanted Notices

(1) After review of Selective Service file, the usual next step in the investigation is locating and interviewing the subject. If initial attempts to locate the subject are unsuccessful, a wanted notice, FD-165, may be placed with the FBI Criminal Justice Information Services Division, indicating on the wanted notice that subject is wanted for questioning in a Selective Service matter. When the wanted notice is no longer necessary, promptly remove it. If, however, process is obtained, subject becomes a fugitive, and an FD-65, fugitive form, is issued. It will be automatically canceled when the fugitive stop is eventually removed.

(2) Wanted notices should not, as a general practice, be placed with law enforcement agencies. There is no objection to requesting a local law enforcement agency to be alert for a particular subject, but the local agency should clearly understand that subject is only wanted for interview, when that is the case, and subject's arrest is not desired. Care should be taken to advise the local agency when subject is no longer wanted.

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EFFECTIVE: 04/08/96

25-5.3 Subjects Currently in the Armed Forces

(1) When a case is received from the USA due to a subject's failure to register with Selective Service and investigation indicates that subject is not required to register under the provisions of 25-2 (2) (c) REGISTRATION above, verify subject's military status through appropriate checks and advise USA.

(2) This may happen because the Defense Department has not advised Selective Service of subject's entry into the Armed Forces by use of Form DD-53. When the USA's Office has received information that a registrant has entered the Armed Forces, and registrant's Selective Service file does not contain a DD-53, the USA's Office is required by Selective Service procedural directives to submit SSS Form 720 to the appropriate component of the Armed Forces, requesting information concerning registrant's Armed Forces status. When the Selective Service file indicates that the USA's Office has received information indicating the subject is, or may be, on active duty, and SSS Form 720 has not been submitted to the military by the USA's Office, discuss with the USA with the view of returning case to the Selective Service for further processing.

EFFECTIVE: 07/18/86

25-5.4 Fictitious Registrations

(1) The Selective Service Registrants Processing Manual provides that whenever the USA's Office has its mailings returned because of an apparently fictitious name or address, or whenever the USA has any other reason to believe that a registration is fictitious, USA shall, after reasonable efforts to determine the facts, report the responsible person as a violator. Upon receipt of such a case from the USA, investigation should be made promptly to ascertain whether registration is fictitious. Ordinarily, this can be determined by checking out all information furnished by subject at time of registration. If all information is false or cannot be substantiated, registration may be considered fictitious, and an appropriate LHM should be prepared, a copy of which must be furnished to USA. Although fictitious registrations may be motivated by desire for identifying document to accomplish any of an infinite variety of

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purposes, from enlisting in the Armed Forces or obtaining employment to evading arrest for desertion or past criminal offenses, majority of such registrations fall within one of the following categories:

(a) Registrations by juveniles to obtain Selective Service cards for identification purposes in obtaining access to places, activities, or employments from which normally excluded because of their youth.

(b) Registrations by persons desiring an identification document to aid in consummation of a crime, such as cashing stolen, forged, or worthless checks, or otherwise obtaining something of value by illegal means.

(2) While primary purpose of investigation in cases involving apparent fictitious registrations is to establish whether registrations are, in fact, fictitious, and may be canceled by the USA, each fictitious registration is a violation of the Act and every effort should be made during investigation to identify subject so a decision as to prosecution may be obtained from USA. Unless unusual circumstances exist, extensive investigation is not to be conducted to identify subject, once it has been established registration is fictitious.

EFFECTIVE: 07/18/86

25-5.5 Aliens Referred by Selective Service for Failure to Register

A male alien between the ages of 18 and 26 who is admitted for permanent residence in the United States, or whose previous temporary visa status is changed to permanent residence in the United States is advised by INS of his obligation to register with Selective Service. This is normally accomplished by having the alien read and sign INS form I-59, Selective Service Registration Notice. INS forwards the executed I-59 to the appropriate State Director of Selective Service, along with a copy of INS form I-181, Memorandum of Creation of Record of Lawful Permanent Residence. Cases will be referred by Selective Service to the USA when it appears to the State Director of Selective Service that the alien has not registered with Selective Service in that state. It is noted that the alien may have moved from the state of his initial U.S. residence and may have registered with Selective Service in another state. As of this writing, there is no operable central system in Selective Service

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which may be used to determine if a person is registered anywhere in the Nation. When presenting these cases to the USA, advise USA of the evidence available in Selective Service and/or INS files which indicates the alien was aware of his obligation to register.

EFFECTIVE: 10/24/85

25-5.6 No Card Cases

(1) For many years, Selective Service registrants were issued SSS Form 2, Registration Certificate, and SSS Form 110, Notice of Classification. In late 1974, Selective Service developed SSS Form 7, Status Card, which has been phased in to replace both SSS Forms 2 and 110. Registrants may be encountered who possess any one, two or all three of these documents.

(2) There is no law or regulation which requires a registrant to have in his possession evidence of Selective Service registration. Selective Service Regulation 1641.6 provides, however, that failure to have evidence of registration in possession shall be prima facie evidence of failure to register. There is no regulation which requires the registrant to exhibit registration documents to any person.

(3) Cases of persons in custody of local authorities will be referred to field offices because these persons do not possess registration documents. It is to be clearly understood and imparted to local authorities, however, that no arrests or detentions for sole purpose of determining an individual is in possession of registration documents are desired. Such action may constitute illegal arrest or detention and Bureau will not be party to such activities on part of local authorities who may be overzealous or attempting to use this Act as authority for arrest of individuals in instances where no grounds for arrest under local laws and ordinances. Detention of an individual on charge of "hold for FBI," or any similar phraseology, while registration is being verified must be neither requested nor tolerated. It is responsibility of SAC to advise USA of above policy so there will be no misunderstanding on his/her part as to course of action the Bureau will pursue in these cases.

(4) Verification of registration of subjects in police custody who do not possess registration documents.

(a) If subject in custody of local police without

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cards and has NOT been charged with and arraigned on local offense, immediately advise local authorities that subject's continued detention on Selective Service charges is not desired by the FBI. Institute investigation to determine subject's Selective Service status.

(b) If subject is being held on local charges and will be so held regardless of whether or not he possesses registration documents, institute investigation to determine if subject is registered, and if subject found not to be registered, present facts to appropriate USA for his/her opinion as to prosecution. Advise local authorities of USA's decision.

EFFECTIVE: 10/24/85

25-6 SELECTIVE SERVICE PERSONNEL

(1) If complaint is received alleging official or employee of Selective Service System has violated criminal provisions of Act, thoroughly interview complainant to secure all details upon which complaint based. If complaint specific and believed to have substance, appropriate investigation should be promptly initiated. FBIHQ must be advised of allegation immediately. If prosecution authorized furnish prosecutive report to FBIHQ. If prosecution declined, furnish closing LHM to FBIHQ.

(2) Miscellaneous complaints alleging misconduct on part of draft officials, unaccompanied by specific allegations of fraud, should be referred to State Director of Selective Service. For example, a complainant may submit list of registrants/complainant considers incorrectly classified, without alleging facts upon which prosecution might be predicated. Matters which are administrative in nature should be referred to State Director of Selective Service for handling. If criminal violation indicated, Selective Service System may then refer matter to USA for investigation.

EFFECTIVE: 10/24/85

25-7 VIOLATORS LOCATED ABROAD



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EFFECTIVE: 10/24/85

25-7.1 Aliens Located Abroad

(1) Public Law 414, 82nd Congress, commonly known as the McCarren-Walter Act, enumerated the general classes of aliens ineligible to receive visas and excluded from admission into the United States. These exclusion provisions are incorporated into Title 8, USC, Section 1182 (a). Title 8, USC, Section 1182 (a) (22), provides that aliens who have departed from or who have remained outside the United States to avoid or evade training or service in the armed forces in time of war or a period declared by the President to be a national emergency, are one category of excludable aliens. On March 16, 1964, the Department of Justice issued Order Number 314-64, which established the procedure for invoking this exclusion statute. The procedure was set forth as follows and remains in effect:

(a) USA shall examine his/her file and investigative reports in each case and, upon determination Section 1182 (a) (22) is applicable, he/she shall so notify the field office of FBI.

(b) FBI will furnish INS all information pertinent to application of above Section. Application of the law from an administrative viewpoint shall thereafter be responsibility of INS. Where appropriate, FBI should also make such information available to State Department.

(c) USA shall notify the Selective Service System Headquarters of names and Selective Service number in such cases so its records may be appropriately noted.

(d) In all cases involving aliens in which indictment not returned, cases may be closed in offices of USAs and FBI. Where indictments have been returned, the USA may request Department's authorization to dismiss.

(2) It should be noted that this statute does not require that the aliens have been convicted for violation of Selective Service Laws, or even prosecuted. It is also important to note that the exclusion statute may be invoked against an alien who may have been a citizen of the U.S. at the time that he chose to leave or remain outside the U.S. to avoid military service.

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EFFECTIVE: 10/24/85

25-7.2 Investigative Steps

(1) Conduct thorough review of Selective Service file.

(2) In those cases in which initial review of Selective Service file indicates subject is an alien, thoroughly review INS file to obtain background information, facts concerning alien's admission to the United States, and to determine whether subject ever became a naturalized U.S. citizen. For Title 8, USC, Section 1182, (a) (22), to apply, SUBJECT MUST BE AN ALIEN.

(3) Conduct logical investigation to attempt to verify that subject is abroad. In many cases, this information can be obtained from logical sources in the United States, including, but not limited to, close relatives and INS records. In limited instances, leads may be sent to Legats to verify subject's foreign location. Bear in mind, however, that asking an agency of a foreign nation to conduct investigation of one of the citizens of that nation on behalf of a U.S. agency is a sensitive matter, and such requests must be held to a minimum.

(4) Conduct logical investigation to attempt to determine subject's reason for departure from and/or remaining outside the United States. Do not set leads to have the subject interviewed for this purpose.

(5) When the aforementioned investigation, and any other logical investigative steps have been completed, and it has been determined that subject is an alien, discuss the applicability of Title 8, USC, Section 1182 (a) (22), with USA. In some cases, Selective Service process may already have been obtained by this time. If not, both Title 50, App., Section 462 violation, and the Title 8 exclusion process should be presented at the same time.

(6) If USA invokes Title 8, USC, Section 1182 (a) (22), submit a succinct LHM of the investigation, original and four copies to FBIHQ. These LHMs will be disseminated at FBIHQ and will serve as a basis for INS and Department of State to institute procedures to exclude the alien from admission into the United States. If Selective Service prosecution is declined or dismissed, this LHM should be a closing LHM. If Selective Service process is to remain outstanding, the LHM should reflect a pending inactive status and the case should

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(4) Restrictive passport action

(a) When process is outstanding and U.S. citizen is abroad, even though subject's precise whereabouts are unknown, the matter of restrictive passport action should be discussed with the USA. The revocation, restriction or denial of a passport should usually result in hampering subject's movements overseas, and may encourage subject to return to the United States.

(b) The USA initiating the request should address a letter to Director, Passport Office, Department of State, Attention: PT/LS, Washington, D.C. 20524, incorporating the following data: name, birth data and passport concerning subject; brief statement of the felony charges pending against subject and prosecutive action taken in the matter; information as to subject's present location abroad, if known; statement by the USA that prosecution of subject will be undertaken if and when subject returns to the United States; request by the USA that restrictive passport action be taken; enclose a copy of the Federal complaint and warrant or indictment and warrant.

EFFECTIVE: 10/24/85

25-8

REEMPLOYMENT PROVISIONS

Title 38, USC, Sections 2021 - 2026

(1) These sections of the law give veterans, both draftees and persons enlisted in the armed forces for limited periods, certain rights regarding restoration of employment with former civilian employers. The sanctions imposed upon an employer who violates these provisions are essentially civil in nature. The U.S. District Court is empowered to specifically require a former employer to reemploy the veteran.

(2) No investigation should be conducted in these cases except upon specific request by the USA. Advise FBIHQ by letter immediately upon the receipt of such a request. Discuss necessary and logical investigative steps with the USA. These investigations must receive preferred and expeditious attention to ensure the security of returning veterans.

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EFFECTIVE: 07/18/86

25-8.1 Privacy Act - Requirements

(1) When interviewing anyone in the above classification, in order to solicit information about himself/herself or his/her own activities, the interviewing Agent must follow the procedures described in Part I, 190-5, (2) and (3) of this manual.

(2) When interviewing an individual to solicit information concerning someone other than the interviewee (thereby classifying that individual as a source of information) the interviewing Agent must follow the procedure relating to promises of confidentiality as described in Part I, 190-7 of this manual.

EFFECTIVE: 07/18/86

25-9 CLOSING COMMUNICATIONS

(1) If the case is closed administratively, for whatever reason, submit an original and three copies of an LHM suitable for dissemination setting forth complete details of the investigation to FBIHQ. In the event subject's case proceeds to indictment and prosecution, submit an original and two copies of the prosecutive report to FBIHQ for dissemination to DOJ. An LHM may be used, except in cases involving aliens, employees of Selective Service, bombings, or interference with the Selective Service System, counseling, Aiding and Abetting, burning or mutilating registration cards, veterans reemployment, or prominent people. Do not use an LHM to report statistical accomplishments to FBIHQ.

(2) SSA-FAG and SSA-FTR cases: If it is determined that any applicant was registered with Selective Service on or before June 30, 1983, no further investigation should be conducted and an original and three copies of an LHM containing results of inquiries should be submitted to FBIHQ for dissemination to the DOJ. In the event subject's case proceeds to indictment and prosecution, submit an original and two copies of the prosecutive report to FBIHQ for dissemination to the DOJ.

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EFFECTIVE: 07/18/86

25-10 REPORTING PROCEDURES

(1) No communication need be submitted to FBIHQ at the outset of a routine selective service investigation or if prosecution is not authorized. If prosecution is authorized, a prosecutive report is to be submitted.

(2) An original and two copies of the prosecutive report should be submitted to FBIHQ upon the authorization of prosecution by the USA, or when a specific request for such report is made by the USA or FBIHQ.

(3) If the subject becomes a fugitive, two copies of an FD-65 should be promptly submitted to FBIHQ, and one copy submitted directly to the Savannah Information Technology Center (SITC), by the office of origin. Upon the fugitive's apprehension or location, the locating office must promptly notify FBIHQ by teletype (at least ROUTINE in precedence) and claim the appropriate statistical accomplishment via the Integrated Statistical Reporting and Analysis Application (ISRAA). The office of origin must ensure that all auxiliary offices are notified by teletype to discontinue. (See MIOG, Part I, 76-1.8, 76-2.9, 76-3.13, 88-12, 115-7, & Part II, 21-29.)

(4) In reporting the results of prosecutive action following the submission of a prosecutive report, while Form R-84 (if applicable) is to be forwarded to FBIHQ, a separate letter (airtel with LHM if dissemination desired) should also be submitted detailing the final disposition of each subject. The required letter should note that the appropriate statistical accomplishment has been claimed via the ISRAA.

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25-11 CHARACTER - SELECTIVE SERVICE ACT

(1) In reemployment cases, character is "SELECTIVE SERVICE ACT - REEMPLOYMENT."

(2) In cases concerning organized opposition to the Act, character is "SELECTIVE SERVICE ACT - SEDITION."

(3) In Selective Service Act cases involving only failure-to-register violations, the character will be "SELECTIVE SERVICE ACT - FAILURE TO REGISTER."

(4) In cases involving failure-to-register violations coupled with false statement violations, character will be "SELECTIVE SERVICE ACT - FRAUD AGAINST THE GOVERNMENT."

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SECTION 26. INTERSTATE TRANSPORTATION OF STOLEN MOTOR  
VEHICLE OR AIRCRAFT

26-1 STATUTES

Title 18, USC, Sections 511, 512, 513, 2119, 2311 (in part), 2312, 2313, 2321, and 2322. (See MIOG, Part I, 87-4.2.1.)

EFFECTIVE: 10/13/93

26-1.1 Section 511. Altering or Removing Motor Vehicle  
Identification Numbers

"(a) A person who -

"(1) knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle or motor vehicle part; or

"(2) with intent to further the theft of a motor vehicle, knowingly removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, shall be fined under this title, imprisoned not more than five years, or both.

"(b) (1) Subsection (a) of this section does not apply to a removal, obliteration, tampering, or alteration by a person specified in paragraph (2) of this subsection (unless such person knows that the vehicle or part involved is stolen).

"(2) The persons referred to in paragraph (1) of this subsection are -

"(A) a motor vehicle scrap processor or a motor vehicle demolisher who complies with applicable State law with respect to such vehicle or part;

"(B) a person who repairs such vehicle or part, if the removal, obliteration, tampering, or alteration is reasonably necessary for the repair;

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"(C) a person who restores or replaces an identification number for such vehicle or part in accordance with applicable State law; and

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with or alter the decal or device by -

"(i) the owner or his authorized agent;

"(ii) applicable state or local law; or

"(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.

"(c) As used in this section, the term -

"(1) 'identification number' means a number or symbol that is inscribed or affixed for purposes of identification under the National Traffic and Motor Vehicle Safety Act of 1966, or the Motor Vehicle Information and Cost Savings Act;

"(2) 'motor vehicle' has the meaning given that term in section 2 of the Motor Vehicle Information and Cost Savings Act;

"(3) 'motor vehicle demolisher' means a person, including any motor vehicle dismantler or motor vehicle recycler, who is engaged in the business of reducing motor vehicles or motor vehicle parts to metallic scrap that is unsuitable for use as either a motor vehicle or a motor vehicle part;

"(4) 'motor vehicle scrap processor' means a person

"(A) who is engaged in the business of purchasing motor vehicles or motor vehicle parts for reduction to metallic scrap for recycling;

"(B) who, from a fixed location, uses machinery to process metallic scrap into prepared grades; and

"(C) whose principal product is metallic scrap for recycling;



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but such term does not include any activity of any such person relating to the recycling of a motor vehicle or a motor vehicle part as a used motor vehicle or a used motor vehicle part.

"(d) For purposes of subsection (a) of this section, the term 'tamper with' includes covering a program decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility."

Special attention should be given the definition of a motor vehicle in Section 511. That definition, also applicable to Sections 512 and 2321, includes any vehicle driven or drawn by mechanical power for primary use on public streets, roads, or highways. (See Title 15, USC, Section 1901(15).) This would include trailers, but not include construction or farm equipment not manufactured primarily for street use. The definition of a motor vehicle in Section 2311 (see 26-1.8) includes self-propelled vehicles designed for running on land. This would include farm and construction equipment, but not trailers.

EFFECTIVE: 10/19/94

26-1.1.1 Section 511A. Unauthorized Application of a Decal or Device

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, unless authorized to do so pursuant to the Motor Vehicle Theft Prevention Act, shall be punished by a fine not to exceed \$1,000."

"(b) For purposes of this section, the term, theft prevention decal or device, means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to the Motor Vehicle Theft Prevention Act."

EFFECTIVE: 10/19/94

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26-1.2 Section 512. Forfeiture of Certain Motor Vehicles and  
Motor Vehicle Parts

"(a) If an identification number for a motor vehicle or motor vehicle part is removed, obliterated, tampered with, or altered, such vehicle or part shall be subject to seizure and forfeiture to the United States unless -

"(1) in the case of a motor vehicle part, such part is attached to a motor vehicle and the owner of such motor vehicle does not know that the identification number has been removed, obliterated, tampered with, or altered;

"(2) such motor vehicle or part has a replacement identification number that -

"(A) is authorized by the Secretary of Transportation under the National Traffic and Motor Vehicle Safety Act of 1966; or

"(B) conforms to applicable State law;

"(3) such removal, obliteration, tampering, or alteration is caused by collision or fire or is carried out as described in section 511(b) of this title; or

"(4) such motor vehicle or part is in the possession or control of a motor vehicle scrap processor who does not know that such identification number was removed, obliterated, tampered with, or altered in any manner other than by collision or fire or as described in section 511(b) of this title."

| The FBI has been delegated authority to institute civil administrative forfeiture proceedings pursuant to Section 512. The Forfeiture and Abandoned Property manual contains the step-by-step procedure to be followed for seizures and civil forfeiture proceedings (judicial and administrative) conducted in conjunction with this violation. |

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26-1.3 Section 513. Securities of the States and Private  
Entities (See MIOG, Part I, 26-7.)

"(a) Whoever makes, utters, or possesses a counterfeited security of a State or a political subdivision thereof or of an organization; or whoever makes, utters, or possesses a forged security of a State or political subdivision thereof or of an organization, with intent to deceive another person, organization, or government shall be fined not more than \$250,000 or imprisoned for not more than ten years, or both."

"(b) Whoever makes, receives, possesses, sells, or otherwise transfers an implement designed for or particularly suited for making a counterfeit or forged security with the intent that it be so used shall be punished by a fine of not more than \$250,000 or by imprisonment for not more than ten years, or both."

EFFECTIVE: 07/31/97

26-1.4 Elements - Section 513 (Securities of States and Private  
Entities)

(1) That an individual make, utter, or possess a counterfeit or forged security (or blank form) of a state. This would include a motor vehicle title.

(2) That the individual intends to deceive another person, organization, or government.

(3) Although this section does not require that the security be transported in interstate commerce, its use should be limited to those situations which do involve interstate commerce.

(4) FBIHQ - Department of Justice approval must be obtained prior to the use of this section wherein no interstate commerce is present.

EFFECTIVE: 07/31/97

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26-1.5 Section 2119. Motor Vehicles (See MIOG, Part I,  
26-2.9 & 26-7.)

"Whoever, with the intent to cause death or serious bodily harm, takes a motor vehicle that has been transported, shipped, or received in interstate or foreign commerce from the person or presence of another by force or violence or by intimidation, or attempts to do so, shall-

"(1) be fined under this title or imprisoned not more than 15 years, or both;

"(2) if serious bodily injury (as defined in Section 1365 of this title) results, be fined under this title or imprisoned not more than 25 years, or both; and

"(3) if death results, be fined under this title or imprisoned for any number of years up to life, or sentenced to death."

EFFECTIVE: 10/19/94

| 26-1.6 | Section 2312. Transportation of Stolen Vehicles | (See  
MIOG, Part I, 26-7.) |

"Whoever transports in interstate or foreign commerce a motor vehicle or aircraft, knowing the same to have been stolen, shall be fined under this title or imprisoned not more than 10 years, or both."

EFFECTIVE: 10/13/93

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|26-1.7| Section 2313. Sale or Receipt of Stolen Vehicles | (See  
MIOG, Part I, 26-7.) |

"Whoever receives, possesses, conceals, stores, barter, sells, or disposes of any motor vehicle or aircraft, which has crossed a State or United States boundary after being stolen, knowing the same to have been stolen shall be fined under this title or imprisoned not more than 10 years, or both."

Federal criminal jurisdiction is retained over a stolen motor vehicle even after it ceases to be a part of interstate commerce. It is no longer necessary to prove a continuing interstate commerce nexus regarding a stolen vehicle taken across state lines after October 25, 1984.

EFFECTIVE: 10/13/93

|26-1.8| Section 2311. Definitions - Applicable to Sections  
2312 and 2313 | (See MIOG, Part I, 26-1.1(1).) |

"Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of or for flight in the air.

"Motor vehicle" includes an automobile, automobile truck, automobile wagon, motorcycle, or any other self-propelled vehicle designed for running on land but not on rails.

"Securities" includes... (in part) voting-trust certificate; valid or blank motor vehicle title; certificate of interest...." (See Part I, 87-1.1.1 (Definitions), of this manual, for additional details.)

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26-1.9 Elements - Sections 2312 and 2313

(1) That the motor vehicle, security, or aircraft was stolen

(2) That the motor vehicle, security, or aircraft was transported in interstate or foreign commerce

(3) That the person transporting the motor vehicle, security, or aircraft knew it to have been stolen, or that the person receiving, possessing, concealing, storing, bartering, selling, or disposing of the motor vehicle, security, or aircraft knew it to have been stolen. [Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that the motor vehicle, security, or aircraft was stolen, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).]

EFFECTIVE: 10/23/95

||26-1.10| Section 2321. Trafficking in Certain Motor Vehicles or Motor Vehicle Parts

"(a) Whoever buys, receives, possesses, or obtains control of, with intent to sell or otherwise dispose of, a motor vehicle or motor vehicle part, knowing that an identification number for such motor vehicle or part has been removed, obliterated, tampered with, or altered, shall be fined not more than \$20,000 or imprisoned not more than ten years, or both.

"(b) Subsection (a) does not apply if the removal, obliteration, tampering, or alteration -

"(1) is caused by collision or fire; or

"(2) is not a violation of Section 511...."

Neither Sections 511 nor 2321 cover the simple possession of a vehicle or component with a falsified or removed identification number. Section 511 is limited to the person who removes or falsifies the identification number or who aids or abets such conduct. Section 2321 covers the trafficker of such vehicles or components, not a mere

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possessor.

EFFECTIVE: 10/13/93

26-1.11 Section 2322. Chop Shops (See MIOG, Part I, 26-2.10 & 26-7.)

"(a) In general, 'Unlawful Action' means any person who knowingly owns, operates, maintains, or controls a chop shop or conducts operations in a chop shop shall be fined under this title or by imprisonment for not more than 15 years, or both. If a conviction of a person under this paragraph is for a violation committed after the first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to any fine and imprisonment.

"(b) For purposes of this section, the term 'chop shop' means any building, lot, facility, or other structure or premise where one or more persons engaged in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing any passenger motor vehicle or passenger motor vehicle part which has been unlawfully obtained in order to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity including the vehicle identification number or derivative thereof, of such vehicle or vehicle part and to distribute, sell, or dispose of such vehicle or vehicle part in interstate or foreign commerce."

EFFECTIVE: 10/13/93

26-1.12 Elements - Sections 511 (Altering or Removing Motor Vehicle Identification Numbers), 512 (Forfeiture of Certain Motor Vehicles and Motor Vehicle Parts), and 2321 (Trafficking in Certain Motor Vehicles or Motor Vehicle Parts)

(1) Section 511 - that the identification number for a motor vehicle or major component part knowingly be removed, obliterated, tampered with, or altered.

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| (2) | Section 512 - any motor vehicle or motor vehicle part where the identification number has been removed, obliterated, tampered with, or altered is subject to seizure.

| (3) | Section 2321 - any person who buys, receives, possesses, or obtains control of such a vehicle or part, knows the identification number has been removed, obliterated, tampered with or altered and intends to sell or otherwise dispose of the vehicle or part.

(4) These sections do not require that the vehicle or part be transported in interstate commerce.

EFFECTIVE: 10/13/93

| 26-2 POLICY | (See MIOG, Part I, 87-3.4.) |

EFFECTIVE: 10/13/93

26-2.1 Office of Origin

| (1) | The office of origin in cases relating to violations of Section 2119 (carjacking) and 2322 (chop shops) will be the office covering the place where the offense is committed. (See MIOG, Part I, 26-2.9.) |

| (2) | The office of origin in most other motor vehicle cases will be that office covering the place where the stolen car is recovered. It may be desirable in certain cases to change the office of origin from the place of recovery to the place of theft or the place where the principal criminal activity is taking place. An example of this is a case in which a commercial theft (CT) ring is involved. This is in accord with departmental instructions to USAs that prosecution should be instituted in the district into which the stolen motor vehicle is last brought unless it would appear that by reason of unusual circumstances it is inexpedient to institute prosecution in that district but rather in the district from which the vehicle was first brought.

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26-2.2 Referral of Complaints

When a complaint is received and no investigation is to be conducted in the field office where the complaint was received, the following procedure is to apply:

(1) The complaint shall be prepared for transmittal to the appropriate offices, and include the basic data, as well as source of the complaint.

(2) A file copy of the outgoing communication from the office receiving complaint should all be placed in "26-0" file. Thus, the office receiving the complaint but having no subsequent investigative work to perform shall not open and close a case or make assignment cards when its sole function is to transmit the complaint to other field offices for investigation.

EFFECTIVE: 08/19/85

26-2.3 Liaison Program

(1) Every field office must maintain an efficient and productive liaison program with all possible sources of ITSMV cases. Good liaison can best be obtained by ensuring that referrals are followed up by promptly instituting investigation.

(2) The liaison program should be structured to reflect any established prosecutive policy of the USA in the district concerned. Some USAs have established blanket declination policies in certain ITSMV matters.

(3) Examples of sources which should be included in the program are:

- (a) Local and state police agencies
- (b) State and/or local motor vehicle registration

bureaus

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(c) New and used car dealers

(d) Automobile auctions

(e) Automobile salvage and junk dealers, and

(f) National Insurance Crime Bureau (NICB)

(4) Effective liaison is also essential in Interstate Transportation of Stolen Aircraft (ITSA) investigations.

(5) Examples of sources which should be included for ITSA matters are:

(a) Local and state police

(b) Federal Aviation Administration (FAA)

(c) Aircraft dealers, repair and refueling facilities, transient tie-down centers, salvage dealers, and airport operators

(d) International Aviation Theft Bureau (IATB)

(e) El Paso Intelligence Center (EPIC)

EFFECTIVE: 10/13/93

26-2.3.1 NCIC Entry (See MIOG, Part I, 26-2.9.)

Where automobiles are involved in Bureau cases, such as Crime on Government Reservation, Bank Robbery, Kidnaping, or in carjackings and similar cases and the vehicle identification number (VIN), license plate number, and descriptive data of the automobile are known, these should be included in NCIC immediately, if whereabouts of vehicle or license plate is unknown (whether stolen or not). In addition, cases of special interest involving theft of automobiles and/or major automobile component parts should also be included in NCIC. Ensure vehicle, license plate and/or component parts are removed from NCIC when they are located.

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26-2.4 Characterization of Agencies as Sources of Information

(1) NATIONAL INSURANCE CRIME BUREAU (NICB). NICB is a nonprofit organization maintained by a voluntary association of automobile insurance companies. It is private in character, in the nature of a quasi-official service organization but not a private detective agency. Its functions are to receive, correlate, and distribute to law enforcement agencies information regarding stolen motor vehicles and to aid law enforcement agencies authorities in tracing, identification, and recovery of stolen motor vehicles. Bureau Agents may properly make use of the services of NICB as a source of Bureau cases, to check their records for data on stolen automobiles, and in some instances, NICB personnel may assist Bureau Agents in the examination and identification of suspected stolen automobiles. NICB may also serve to trace the ownership history and title record of an automobile from the factory to the present possessor.

(2) INTERNATIONAL AVIATION THEFT BUREAU (IATB). IATB is a project of the Airline Owners and Pilots Association (AOPA). IATB was instituted in 1974 and is supported by the aviation insurance industry. The mission of IATB is to accept aviation-related theft information, publish this information for the industry to reduce thefts, and compile statistics and work closely with law enforcement at all levels. The publication of the quarterly "Alert Bulletin" often results in recoveries or further information leading to recoveries of stolen aircraft or avionics. IATB is not in the business of investigation, only statistical support for related agencies. IATB is located at the AOPA Headquarters, 421 Aviation Way, Frederick, Maryland 21701, telephone: (301) 695-2022.

(3)

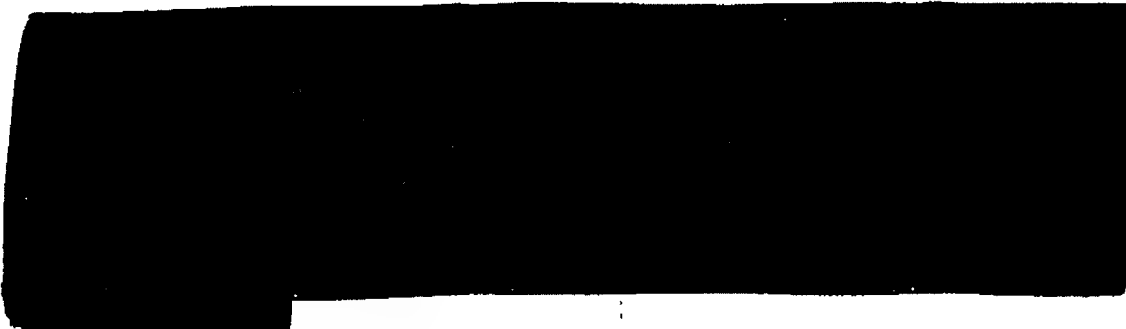


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b2 per DEA

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26-2.5 Verification of Recovered Vehicles and Physical  
Examination of Stolen Automobiles Involved in Commercial  
Thefts (See MIOG, Part I, 26-2.9.)

(1) In carjacking cases, telephone calls, followed by teletypes, should be considered in setting out leads concerning the identification of vehicles suspected of having been taken by force, suspected carjackers, or the location of stolen or suspect vehicles depending upon the exigency of the circumstance. Leads set out in this fashion must be covered immediately as the lives of victims may be at risk. In other cases, consider use of teletypes in setting out leads concerning the identification of a suspected stolen car and for the purpose of determining whether or not it is stolen. Upon receiving such a lead, the receiving office must advise the sending office of all available information within 24 hours after receipt of the communication. Where common sense and good judgment indicate a teletype is not necessary, an electronic communication may be used.

(2) A thorough physical examination of the stolen car should be done promptly in order to correctly identify the vehicle and to eliminate tedious and unnecessary record searches. Special care should be given to the processing of vehicles when they are the subject of a carjacking investigation in order to safeguard potential evidence such as hairs, fibers, and body fluids. This physical examination of stolen cars must be done by qualified law enforcement officers or laboratory personnel for several reasons:

(a) To locate and properly preserve physical evidence and

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(b) To discover any alteration of identifying numbers on the automobile and other such indications of possible commercial theft ring activity.

(c) To assist in the gathering of pertinent data on vehicles and in the preparation of FD-302s, FD-653, Motor Vehicle Inspection Inventory Record, may be used. The FD-653 is an optional administrative form which, if used, is to be retained in a 1-A envelope (FD-340 and/or FD-340b) with the Agent's notes. (See MIOG, Part I, 26-2.7(2), 149-3(3)(g) & Legal Handbook for Special Agents, 5-7.2(3)(e).)

(3)

THIS BOOK should be afforded the same security as other official FBI manuals but it should be readily available and thoroughly understood by Bureau Agents conducting physical examinations of stolen cars. Also of assistance to Bureau Agents is the "National Insurance Crime Bureau (NICB) Manual for Identification of Automobiles" which contains information relating to public identification on automobiles. Bureau Agents assigned to these cases should, if possible, possess this NICB manual.

(4)

(5)

(6) The points listed above also pertain to ITSA investigations

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26-2.6 Custody of Recovered Vehicles (See MIOG, Part I,  
26-2.9; & MAOP, Part II, 2-4.4.14.)

Bureau Agents should not take possession of a stolen motor vehicle or aircraft unless necessary. However, special attention must be given to carjacked vehicles, especially in circumstances where victims have been injured or killed. In such circumstances, it may be necessary for Bureau Agents to secure such vehicle in order to ensure its proper processing for significant evidence. Any problem arising out of custody of such vehicle or aircraft must be immediately discussed with the appropriate USA. In this respect, a stolen motor vehicle or aircraft located in the hands of an apparently innocent purchaser may subsequently involve a civil action. Care must be taken to ensure that the Bureau does not become involved in such civil action; attention must be directed to the provisions of Departmental Order 501-73 (previously Departmental Order 381-67, 324-64, 260-62, and 3229) and Departmental Order No. 3464, Supplement No. 4 (Revised), concerning the confidential character of FBI reports and records.

EFFECTIVE: 10/16/96

26-2.7 Commercial Theft (CT) Ring Cases

(1) A CT case is one in which an individual or group of persons is involved in commercial auto theft activities. These cases must receive imaginative, thorough, and continuous investigative attention. In CT cases the office of origin should assign a number to each stolen and suspect car under investigation and all offices should follow the numbering system assigned by the office of origin. In the initial stages of these cases, all leads should be set forth by expedite communications and these leads should be given preferential investigative attention.

(2) The basic and essential investigative steps in all ITSMV-CT cases are the prompt location, physical examination, and correct identification of each stolen car involved and the identification of each subject involved in the handling of each car. Generally in a CT case there will be subjects other than the actual transporters and receivers of stolen vehicles who will be acting in conspiracy with the violators of the substantive statutes. Investigation should be conducted to show the extent that these subjects, such as thieves, fences, motor number changers, and preparers of fictitious motor vehicle documents, have entered into a

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conspiracy to transport stolen autos in interstate commerce. To assist in gathering all pertinent data regarding the recovered vehicle, the FD-653, Motor Vehicle Inspection Inventory Record, may be used. (See MIOG, Part I, 26-2.5(2)(c), 149-3(3)(g) & Legal Handbook for Special Agents, 5-7.2(3)(e).)

EFFECTIVE: 11/15/93

26-2.8 Laboratory Automobile Files (See MIOG, Part II, 13-13.5.)

(1) NATIONAL AUTOMOBILE ALTERED NUMBERS FILE: The FBI Laboratory is maintaining in the National Automobile Altered Numbers File selected specimens, including surface replica plastic impressions of altered vehicle identification numbers found on stolen cars, trucks and heavy equipment. The purpose of this file is to have a central repository for such specimens of altered numbers so that comparisons can readily be made at any time in an attempt to identify recovered stolen cars and possibly link such vehicles with commercialized theft rings nationwide or other cases investigated by the Bureau. (See MIOG, Part I, 26-2.5(5).)

The field has been supplied with kits containing surface replica plastic, along with instructions for its use in making impressions of altered die-stamped vehicle identification numbers (VIN). Upon recovery of a stolen motor vehicle bearing an altered VIN, BEFORE ANY ATTEMPT IS MADE TO RESTORE THE ORIGINAL VIN, plastic impressions should be made and forwarded to the Laboratory. For detailed instructions for making plastic impressions of stamped numbers, see Part II, 13-13.3.1 of this manual. For information on number restoration, also see MIOG, Part II, 13-14.2 (10).

(2) Deleted

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26-2.9 Carjacking (See MIOG, Part I, 26-1.5, 26-2.1, 26-2.3.1, 26-2.5, 26-2.6, & 26-7(2).)

(1) A carjacking is defined by Title 18, USC, Section 2119, as the taking or attempted taking, with a firearm, of a motor vehicle from the person or presence of another by force and violence or by intimidation. Due to the differing priorities within various field offices, the response to carjacking may vary between divisions. In all jurisdictions, the Bureau should seek to assist the state and local police departments as needed in their investigation of carjacking. Field offices experiencing gang activity, organized crime activity involving carjacking and or cases of significant notoriety should take an active role in the investigation of carjacking under appropriate Federal statutes.

(a) The carjacking statute applies only to carjackings in which the defendant is armed with a firearm. An unarmed carjacking or one in which the defendant is armed with any other type weapon is not a Federal offense under this provision. The statute adopts the definition of a firearm contained in Title 18, USC, Section 921(a) (3). Such term does not include an antique firearm.

(b) The interstate commerce nexus is established by the movement of the vehicle (not the firearm) in interstate or foreign commerce. To prove the interstate nexus, it should be necessary to show only that the vehicle traveled at some time in interstate or foreign commerce. The NICB can assist in this respect. When supplied with the vehicle identification number of a motor vehicle via inquiry through the Bureau's information center at Butte, NICB can furnish a detailed history of a motor vehicle including its place and date of assembly and all subsequent shipments. NICB can furnish documentation for court and expert witness testimony when needed.

(2) FBIHQ should be advised by teletype of any carjacking cases which involve a loss of life and those that generate significant media attention.

(3) The Federal statute which addresses carjacking, the Anti-Car Theft Act of 1992, specifies that the FBI is to have Federal criminal investigative responsibility for violations arising under this statute. Violations of Title 18, USC, Section 2119 should be addressed under the TURK classification 26A and be characterized as ITSMV-CARJACKING. FBIHQ should be advised by teletype of any incursions by other Federal law enforcement agencies in its jurisdiction relative to carjacking.



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EFFECTIVE: 10/13/93

26-2.10 | Chop Shops (See MIOG, Part I, 26-1.11.)

(1) Title 18, USC, Section 2322 makes it illegal for anyone to knowingly own, operate, maintain, or control a chop shop or to conduct operations in a chop shop. For the purposes of this section, a chop shop is defined as any building, lot, facility, or other structure or premise where one or more persons engage in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing any passenger motor vehicle or motor vehicle part which has been unlawfully obtained in order to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity, including the vehicle identification number or derivative thereof, of such vehicle or vehicle part and to distribute, sell, or dispose of such vehicle or vehicle part in interstate or foreign commerce.

(2) Violations of Title 18, USC, Section 2322 should be addressed under the TURK classification 26B and be characterized as ITSMV-CHOP SHOPS.

EFFECTIVE: 10/13/93

26-2.11 Accomplishments

(1) The recovery value of vehicles or major component parts will be credited to field offices in those instances when the item itself is actually recovered by FBI personnel. The fact that a bona fide ITSMV case exists and an automobile or part has been recovered does not mean that an office will automatically be credited with the value of the recovered item.

(2) |Recovery|value will be credited to the field office submitting|the statistical accomplishment via the Integrated Statistical Reporting and Analysis Application (ISRAA).| Border field offices will make a record of value of such motor vehicle, part, or aircraft located or recovered in their respective territories in

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Mexico and Canada when the recovery is the direct result of FBI investigation. The field office where a motor vehicle, part, or aircraft was stolen will record recovery value where it is located or recovered in remaining parts of Mexico and Canada or in any other foreign country when the recovery is a direct result of specific FBI investigation. If a stolen automobile, part, or aircraft is recovered by Bureau personnel in the same state in which it was stolen (not having been transported interstate), the recovery value will be credited to the office of recovery upon submission via the ISRAA.

(3) In determining value of recovered stolen automobiles, Blue Book value should be followed. Where Blue Book value is unrealistic, such being case where vehicle or part is in a wrecked or dismantled condition upon recovery, the value should be secured from best available local estimate. In such cases, acceptable sources of valuation would include reputable automobile dealers and insurance company adjusters. In no instances are Bureau personnel to furnish an opinion as to value nor are values to be obtained from owners of stolen vehicles.

EFFECTIVE: 11/15/93

|| 26-2.12 | Reporting Procedure

Prosecutive report in CT cases need be prepared:

- (1) When prosecutive action is undertaken
- (2) When requested by USA's Office
- (3) When needed by field supervisory personnel

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26-3 DEPARTMENTAL PROSECUTIVE POLICY

(1) In March, 1970, the Department of Justice issued prosecutive guidelines to all USAs regarding prosecution of ITSMV cases. The Department felt that the desirability of deferring many of these cases to local authorities for prosecution should be emphasized. USAs were instructed to defer prosecution to local authorities in individual cases involving persons under 21 years of age, unless such a person is a recidivist who has been arrested twice previously for motor vehicle theft and had been incarcerated on one or more occasions for this or other offenses. In order for a USA to authorize ITSMV prosecution of an individual over 21 years of age, this individual should have been convicted of a previous felony in any jurisdiction. The USA may also consider prosecution if:

(a) The stolen vehicle is used in the commission of a separate felony for which punishment less than ITSMV could be expected from local court;

(b) The stolen vehicle is demolished; sold, stripped, or grossly misused; and

(c) An individual steals more than one vehicle in such a manner as to form a pattern of conduct. No prosecution is to be considered with regard to "joy-riding" thefts.

(2) To determine if a subject has a prior record which would qualify him/her for prosecution under the above guidelines, field offices should first check the subject through the Interstate Identification Index (see Part II, Section 14-12.3.3 of this manual). If this inquiry is negative, a teletype should be directed to FBIHQ, Attention: Criminal Justice Information Services Division. Include all available identifying data and request the Criminal Justice Information Services Division to furnish any record by return teletype.

(3) The Department instructed USAs that CT cases and multitheft operations should continue to be investigated and prosecuted. Bureau Agents should thoroughly investigate all CT cases and discuss their prosecutive merits with USAs at an appropriate time.

(4) The guidelines stated above apply to motor vehicles, NOT AIRCRAFT. All ITSA cases should be presented for prosecutive opinion, absent specific prosecutive guidelines for a particular judicial district.

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(5) Concerning Section 513 (Securities of the States and Private Entities), FBIHQ and Department of Justice authority must be obtained prior to its use where no interstate element exists.

EFFECTIVE: 04/08/96

26-3.1 Juvenile Offenders

A large number of subjects involved in stolen motor vehicle investigations are juveniles (17 years of age and younger). These cases should be promptly discussed with the USA for his/her decision as to Federal prosecution. The USA should be furnished with adequate background information on the juvenile such as his/her prior arrest record, aggravated circumstances of the present offense, present and past juvenile delinquency status with local authorities, and other special background data. Should the USA decline, the case should be immediately referred to state or local prosecuting authorities for their consideration under applicable state statutes. The obtaining of the juvenile's background should not occasion any delay in the prompt and timely presentation of the case.

EFFECTIVE: 10/13/93

26-4 INVESTIGATIVE PROCEDURES (See MIOG, Part I, 87-3.4.)

In investigating these violations, the following suggestions are made. Many of the suggestions as to motor vehicles also apply in general to aircraft:

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26-4.1 Proof of Theft

(1) It should be immediately examined and proper notes made of the license, identification and other assembly numbers, together with any distinctive marks, stains, damages, and equipment which may prove of value in identifying it.

[REDACTED] Notes taken during this examination should be preserved in a exhibit envelope (FD-340 and/or FD-340b) for future reference during the trial.

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(2) If the owner is not known, trace ownership by use of assembly numbers through NICB automobile associations or offices covering the factory and dealer to whom shipped. Information on ownership of aircraft can be obtained from the license and airworthiness certificates required to be in the aircraft, or by lead to Washington Metropolitan Field Office furnishing the aircraft's description and license number and requesting contact with Federal Aviation Administration headquarters for ownership data.

(3) Owner of vehicle in most cases will not be notified of its recovery by Bureau personnel unless requested by office of origin. NCIC will request department which entered stolen vehicle in NCIC to notify owner. In those few instances in which vehicle has not been entered in NCIC, owner should promptly be notified of its recovery and location by office of origin instructing appropriate office to handle. Following examination of a vehicle by office of origin, they may desire to have owner interviewed. If an auxiliary office receives such a request, ascertain following:

(a) Date, place, and hour of theft

(b) The means by which he/she can identify the vehicle, ascertaining whether he/she ever saw the identification or other assembly numbers and can testify from his/her own independent knowledge and recollection as to them. If not, information should be secured as to the nature of documents, notes, or papers from which he/she can refresh his/her memory. The owner should be informed that he/she will be a necessary witness before the grand jury and at the trial. He/She should be acquainted with the general nature of the testimony expected of him/her.

(c) His/Her evidence of ownership, such as certificate of title and registration card. He/She should be instructed to preserve carefully these papers in order that he/she may bring them with him/her when subpoenaed as a witness.

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- (d) Who last had possession of the vehicle before the theft
- (e) The circumstances surrounding the theft and any lead as to the identity of the thief
- (f) When and to whom the theft was reported
- (g) If it appears vehicle was fraudulently obtained, rented, or borrowed from the owner, develop fully all circumstances tending to show the practice of fraud, deceit, or trickery in obtaining possession of it, and intent on the part of the subject to convert to his/her own use.
- (h) If practicable, arrange for the owner to examine the vehicle after its location or recovery in order that he/she may positively identify it.

EFFECTIVE: 10/13/93

26-4.2 Evidence and Witnesses Regarding Theft

If it is necessary to prove identity of the stolen vehicle by assembly numbers, a complete chain of evidence should be set forth tracing the stolen vehicle from the point of its location or recovery to the owner. If the identification number on the stolen vehicle has been changed, the USA ordinarily will desire the following chain of witnesses:

(1) The person who located or recovered it, with original notes as to all assembly numbers at the time

(2) Investigator or other person, with original notes,

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(3) Proper witness from factory which manufactured vehicle, with assembly records showing correct identification and assembly numbers

(4) Proper witness, with necessary records, from office of dealer who sold vehicle to owner

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(5) Proper witness, with records, from office of motor vehicle registration bureau of state in question, showing identification number of vehicle sold to and registered by owner

(6) Owner of vehicle with evidence of ownership, such as certificate of title and registration card

EFFECTIVE: 08/19/85

26-4.3 Ownership of Vehicle

If the owner is a firm or concern, either a partnership, or corporation, the necessary information as to the exact name of such firm, partnership, or corporation shall be included in the prosecutive report. Also show the state under the laws of which it was incorporated.

EFFECTIVE: 08/19/85

26-4.4 Proof of Vehicle Transported in Interstate or Foreign Commerce

(1) Show the date, hour when, place where, and by whom it was located or recovered, and from whom it was recovered or in whose possession it was located.

(a) Interview thoroughly and, if possible, obtain written statement of persons from whom it was recovered or in whose possession it was located.

(b) Interview the persons who recovered it.

(2) Show all points from, through, and to which it was transported, by evidence obtained from subject, persons recovering it, or any other persons having knowledge of the transportation. Interview other persons having knowledge of the transportation. Secure all corroborating details, such as garage or airport records of storage and repairs while en route, and hotel registrations of transporters. As venue for prosecution lies in the district where it was stolen, or at any point in any judicial district of another state through which it was transported, or in the judicial district into which it was brought, showing all points into or through which the

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vehicle was transported frequently will enable USAs to select as the place for prosecution a judicial district from, into, or through which all stolen vehicles handled by the subject were brought. In this way complete evidence as to the various violations on the part of the defendant may be submitted to the same grand and petit juries.

EFFECTIVE: 08/19/85

26-4.5 Proof of Guilty Knowledge of Theft by the Accused

(1) The transporter frequently is the thief and proof to the effect that he/she stole it is conclusive evidence that he/she knew it to be stolen at the time of the transportation.

(2) Guilty knowledge on the part of the transporter frequently is proved by circumstantial evidence such as:

(a)

(b)

(c)

(d)

(e)

(f)

(g)

(h)

(i)

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(3) On the part of the person who received, possessed, concealed, stored, bartered, sold, or disposed of it--in some cases it is necessary to prove the theft and interstate transportation of the vehicle in order to give the federal government jurisdiction. It is then necessary to prove guilty knowledge on the part of the receiver, etc., to the effect that it has been stolen. Such guilty knowledge usually is proved by circumstantial evidence similar to that mentioned above.

(4) Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that the property was stolen, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

EFFECTIVE: 10/23/95

26-4.6 Definition of Motor Vehicle (See MIOG, Part I, 15-4, 26-1.8, 149-5.1.)

(1) Employees should be aware of the definition of a motor vehicle as set forth in Title 18, USC, Section 31 (DAMV Statute - Part I, Section 149-1.1.5 of this manual).

(2) Effective January 1, 1985, a motor vehicle is described under this section as "... every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo." Based on this definition, a person who destroys or damages a truck with intent to endanger the driver or another person on board, or with reckless disregard for their safety, can be prosecuted under Title 18, USC, Section 33 (DAMV Statute).

(3) DOJ has advised that expansion of the term "motor vehicle" is not intended to "federalize" every attack upon a truck which endangers persons on board, and offices should develop prosecutive guidelines with respect to this statute through their law enforcement coordinating committees.

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EFFECTIVE: 01/08/96

26-5 NATIONWIDE STOLEN AIRCRAFT ALERT PROCEDURES

EPIC will automatically request an FAA alert on all aircraft entered into NCIC as stolen. Area alerts for specific regions of the country can also be requested through EPIC, but these are done by request only and not automatically.

EFFECTIVE: 08/19/85

26-6 VENUE

Venue lies in any district from, through, or into which the motor vehicle, motor vehicle component parts, security or aircraft has been transported (Title 18, USC, Section 3237).

EFFECTIVE: 08/19/85

26-7 PENALTIES

(1) Title 18, USC, Section 511 (Altering or Removing Motor Vehicle Identification Numbers), five years in prison or a \$10,000 fine or both.

(2) Title 18, USC, Section 513 (Securities of the States and Private Entities), ten years in prison or a \$250,000 fine or both. (See MIOG, Part I, 26-1.3.)

(3) Title 18, USC, Section 2119 (Motor Vehicles), up to 15 years in prison and a fine or both; if serious bodily injury occurs, fine and imprisonment for up to 25 years or both; if death occurs, fine and up to life imprisonment or both. (See MIOG, Part I, 26-1.5 & 26-2.9.)

(4) Title 18, USC, Section 2312 (Transportation of Stolen Vehicles), up to ten years in prison or fined or both. (See MIOG, Part I, 26-1.6.)

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| (5) | Title 18, USC, Section 2313 (Sale or Receipt of Stolen Vehicles), up to ten years in prison or fined or both. (See MIOG, Part I, 26-1.7.) |

| (6) | Title 18, USC, Section 2321 (Trafficking in Certain Motor Vehicles or Motor Vehicle Parts), up to ten years in prison or a \$20,000 fine or both. (See MIOG, Part I, 26-1.10.) |

| (7) | Title 18, USC, Section 2322, (Chop Shops), up to fifteen years in prison or a fine or both. (See MIOG, Part I, 26-1.11.) |

| (8) | Title 18, USC, Section 3623 (Alternative fines), should also be consulted.

EFFECTIVE: 10/13/93

26-8

CHARACTER - INTERSTATE TRANSPORTATION OF STOLEN MOTOR VEHICLE OR INTERSTATE TRANSPORTATION OF STOLEN AIRCRAFT  
| (See MIOG, Part I, 87-3.4.) |

For commercial thefts, see also 87 - Interstate Transportation of Stolen Property - Heavy Equipment (HE)

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SECTION 27. PATENT MATTER

27-1 STATUTES

Title 35, USC, entitled "Patents," was revised and codified by the enactment of Public Law 593, 82nd Congress, approved 7-19-52, and became effective 1-1-53. Violations occurring prior to 1-1-53 should be considered under the former code sections.

(1) Title 35, USC, Section 31, "Regulations for agents and attorneys" and Section 32, "Suspension or exclusion from practice (formerly Title 35, USC, Section 11), provides that the Commissioner, subject to the approval of the Secretary of Commerce, may prescribe regulations governing the recognition and conduct of agents or attorneys representing others before the Patent Office, and may, under certain conditions, suspend or exclude either generally or in any particular case, any agent or attorney from further practice before the Patent Office.

(2) Title 35, USC, Section 33, "Unauthorized representation as practitioner" (formerly Title 35, USC, Section 11a), is quoted as follows: "Whoever, not being recognized to practice before the Patent Office, holds himself out or permits himself to be held out as so recognized, or as being qualified to prepare or prosecute applications for patent, shall be fined not more than \$1,000 for each offense."

Note: Section 11a provided a fine of not less than \$50 and not exceeding \$500.

(3) Title 35, USC, Section 181, "Secrecy of certain inventions and withholding of patent"; Section 182, "Abandonment of invention for unauthorized disclosure"; Section 183, "Right to compensation"; Section 184, "Filing of application in foreign country"; and Section 185, "Patent barred for filing without license" (formerly Title 35, USC, Section 42), provides that whenever publication or disclosure by the grant of a patent on an invention in which the Government has a property interest may be detrimental to the national security, in the opinion of the interested Government agency, the Commissioner may order the invention kept secret and withhold the granting of a patent. If such invention has been published, or disclosed in violation of such order or an application for a patent has been applied for in a foreign country without the consent of the Commissioner, the patent may be held abandoned. An applicant, whose patent has been withheld for security reasons, under certain conditions

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may apply for compensation for damage or use by the Government caused by the order.

(4) Title 35, USC, Section 186, "Penalty" (formerly Title 35, USC, Section 42c), provides parties covered by secrecy requirements in Section 181 who publish or disclose information regarding patent, or violate provisions of Section 184 with regard to filing applications for patent in foreign country, are subject to not more than \$10,000 fine or 2 years' imprisonment or both.

(5) Title 35, USC, Sections 271 through 292 (formerly Title 35, USC, Sections 49, 50, 66, 67, 69, 70, 71, 72a, 73, 74, and 75), deals with infringement of patents and remedies.

Title 35, USC, Section 292, "False marking" (formerly Title 35, USC, Section 50), is quoted as follows:

"(a) Whoever, without the consent of the patentee, marks upon, or affixes to, or uses in advertising in connection with anything made, used, or sold by him, the name or any imitation of the name of the patentee, the patent number, or the words 'patent,' 'patentee,' or the like, with the intent of counterfeiting or imitating the mark of the patentee, or of deceiving the public and inducing them to believe that the thing was made, or sold by or with the consent of the patentee; or 'Whoever marks upon, or affixes to, or uses in advertising in connection with any unpatented article, the word 'patent' or any word or number importing that the same is patented, for the purpose of deceiving the public; or 'Whoever marks upon, or affixes to, or uses in advertising in connection with any article, the words 'patent applied for,' 'patent pending,' or any word importing that an application for patent has been made, when no application for patent has been made, or if made, is not pending, for the purpose of deceiving the public - "Shall be fined not more than \$500 for every such offense."

"(b) Any person may sue for the penalty, in which event one-half shall go to the person suing and the other to the use of the United States."

(6) Title 18, USC, Section 497, Letters patent "Whoever falsely makes, forges, counterfeits, or alters any letters patent granted or purporting to have been granted by the President of the United States; or 'Whoever passes, utters, or publishes, or attempts to pass, utter or publish as genuine, any such letters patent, knowing the same to be forged, counterfeited or falsely altered - "Shall be fined not more than \$5,000 or imprisoned not more than ten years, or both."

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EFFECTIVE: 01/31/78

27-2 POLICY

(1) Due to close relationship between criminal and civil aspects of patent laws, criminal investigation concerning above violations conducted only after USA advises allegations warrant criminal prosecution.

(2) Civil procedures alone, available to injured party in connection with infringement of patent, not investigated by Bureau.

(3) Allegations involving violations under Title 18, USC, Section 497, should be thoroughly discussed with the USA before initiating any investigation. Since there has been no prosecution brought under this section, assure USA discusses facts with the Criminal Division, U. S. Department of Justice, prior to authorizing any prosecutive action.

EFFECTIVE: 01/31/78

27-3 CHARACTER - PATENT MATTER

EFFECTIVE: 01/31/78

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SECTION 28. COPYRIGHT MATTER

28-1 STATUTES

| Title 17, USC, Section 506; Title 18, USC, Sections 2318  
and 2319. |

EFFECTIVE: 01/26/83

28-2 ELEMENTS

(1) | Section 506(a). Criminal Infringement - Any person  
who infringes a copyright willfully and for purposes of commercial  
advantage of private financial gain. |

(2) | Section 506(c). Fraudulent Copyright Notice - Any  
person who, with fraudulent intent, places on any article a notice of  
copyright or words of the same purport, that such person knows to be  
false, or who, with fraudulent intent, publicly distributes or imports  
for public distribution any article bearing such notice or words that  
such person knows to be false.

(3) | Section 506(d). Fraudulent Removal of Copyrighted  
Notice - Any person who, with fraudulent intent, removes or alters any  
notice of copyright appearing on a copyrighted work.

(4) | Section 506(e). False Representation in Application  
for Copyright - Any person who knowingly makes a false representation  
of a material fact in the application for copyright registration  
provided for by Section 409, or in any written statement filed in  
connection with the application.

(5) Section 2318. Trafficking in Counterfeit Labels for  
Phonorecords, and Copies of Motion Pictures or Other Audiovisual Works  
- Whoever, in any of the circumstances described below knowingly  
traffics in a counterfeit label affixed or designed to be affixed to a  
phonorecord, or a copy of a motion picture or other audiovisual  
work. The circumstances referred to above are-

(a) the offense is committed within the special  
maritime and territorial jurisdiction of the United States, or within

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the special aircraft jurisdiction of the United States (as defined in Section 101 of the Federal Aviation Act of 1958);

(b) the mail or a facility of interstate or foreign commerce is used or intended to be used in the commission of the offense; or

(c) the counterfeit label is affixed to or encloses, or is designed to be affixed to or enclose, a copyrighted motion picture or other audiovisual work, or a phonorecord of a copyrighted sound recording.

EFFECTIVE: 01/26/83

28-3 POLICY

(1) Investigations involve the illegal manufacture, distribution, sale and/or exhibition of musical compositions (sheet music) and sound recordings (records and tapes), motion picture films, audiovisual works (video games), television shows, books, objects of art, and other copyrightable works, for profit. The policy of the Department of Justice (DOJ) regarding copyright violations is to pursue criminal investigations and prosecutions generally in the areas of sound recordings, motion pictures and audiovisual works (video games), primarily because adequate civil remedies are available to copyright proprietors whose rights have been violated in other areas.

The United States Attorney (USA) should be contacted prior to conducting investigations involving infringement of copyrighted works other than sound recordings, motion pictures and audiovisual works.

(2) Generally, investigation in all copyright cases should be directed toward locating and identifying the producers, principal distributors, and publishers of unauthorized duplications of copyrighted products in order to eliminate the sources of illicit productions.

(3) Investigative experience in sound recording and motion picture cases has shown a most effective method to identify manufacturers and distributors is to locate retailers, seize contraband found in plain view and available to general public, only after making a purchase of illegal sound recording or film. If retailer has not been previously advised of provisions of the



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Copyright Statute and warned of violation, record warning and index in offices' indices. On second occasion, contact USA and consider seizure of contraband, arrest warrant, subsequent indictment and additional investigation to locate distributor or manufacturer.

(4) Sound Recordings

(a) The DOJ is primarily interested in prosecuting manufacturers and distributors of pirated copies; however, retailers should be considered subjects for prosecution, since the statute covers any willful infringement for purposes of commercial advantage or private financial gain. The prosecution of retailers will usually depend on their awareness of the Copyright Statute and the extent of their cooperation in our investigation and prosecution of major suppliers.

(b) All unauthorized duplications of sound recordings, whether pre-2-15-72 or post-2-15-72, are prosecutable in Federal court and all such pirated sound recordings may be seized when executing search warrants or consents to search. Prosecution of pre-2-15-72 sound recording infringements are prosecutable for infringement of the musical composition copyright (sheet music) and not for infringement of sound recording copyright.

NOTE: The unauthorized duplication of a pre-2-15-72 sound recording infringes the underlying musical composition copyright regardless of whether or not the duplicator tenders royalty payments to the copyright owner.

(5) | Motion Picture Films, Television Programs and Audiovisual Works (Video Games) - As in other copyrighted cases, the object of investigation is to determine source of production, actual producer of unauthorized copies, and identity of distributors, subdistributors, wholesalers, and retailers or collectors. |

(6) Motion Picture Sound Tracks

(a) Sound tracks derived directly from motion pictures are covered by copyright on the motion picture and not by sound recording copyright. However, motion picture sound tracks which have been re-recorded may have their own sound recording copyright.

(b) Section 401 of the Copyright Act of 1976 requires a copyright notice for a motion picture sound track be present only on copies of a work; and consistent with case law under the Copyright Act of 1909, the new legislation does not consider a

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phonorecord a copy. Section 401 copyright notice is therefore not required on phonorecords. To protect any new matter present on a soundtrack album, the owner should place on each phonorecord embodying that new matter, a second copyright notice, as required under Section 402(b) of the Act.

(c) Under DOJ policy investigations should center on motion picture or sound recording infringements, excluding soundtrack, whenever possible.

EFFECTIVE: 09/20/89

28-4 INVESTIGATION

EFFECTIVE: 09/20/89

28-4.1 Investigation to Determine Copyright

(1) Office receiving complaint should promptly determine whether a product is copyrighted and, if so, the identity of the copyright holder. The individual rights in copyrighted works enumerated in Section 106 may be owned individually or collectively. Therefore, when conducting preliminary investigation with respect to the copyright owner(s), some care should be exercised in determining ownership of the particular right being infringed.

(2) In order to save investigative time, information regarding copyright registration on current albums, tapes, and single records, should be obtained directly from the Recording Industry Association of America (RIAA) headquarters in New York, New York. From these records, which are filed by the name of the artist and cross-referenced to the title of the song or album, the following information is available: copyright registration number, release date, address and telephone number of the copyright holder, and the person to contact to determine if an individual or company has permission to duplicate a particular sound recording. Copyright registration pertaining to copyrighted motion picture films, television, educational and training films can be obtained from the Film Security Office of the Motion Picture Association of America (MPAA), 14144 Ventura Boulevard, Sherman Oaks, California 91428, telephone (818) 995-6600. The Film Security Office of the MPAA can also determine the gauge in which the film has been released, i.e.,

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70mm, 35mm, 16mm, 8mm, Super 8, or 3/4-inch or 1/2-inch video. For example, if a video copy of a film is located and it is determined that a studio had only released the film in 35mm or 16mm format, the video is obviously illegal.

(3) | The MPAA and RIAA have also established toll-free "hotlines" to receive antipiracy complaints from anywhere in the United States. The MPAA number is 1-800-NO-COPYS (1-800-662-6797), and the RIAA number is 1-800-BAD-BEAT (1-800-223-2328). Offices receiving information or complaints concerning films, video, or sound piracy may wish to refer the complainant to either the MPAA or RIAA if there is insufficient information or available resources to initiate a copyright investigation.

(4) | If information regarding copyright registration on sound recording or motion picture is not available through the RIAA or MPAA, or a copy of the registration certificate is needed for court, a lead should be set out for the Washington|Metropolitan|Field Office to obtain this information from the U.S. Copyright Office. Under Section 708 of the Copyright Law of 1976, which became effective January 1, 1978, each certified Copyright Registration Certificate obtained from the Copyright Office will cost the Bureau \$4.

(5) | In certain cases, where a particular bootleg or counterfeit operation is large in scope, violations of Title 17 may be prosecuted under other criminal statutes including Interstate Transportation of Stolen Property, Mail Fraud and, in especially aggravated cases, Racketeer Influenced and Corrupt Organizations statute.

EFFECTIVE: 09/20/89

28-4.2 Search Warrants

(1) Section 509(a) authorizes the seizure of infringing copies and means of producing such copies when used, intended for use, or possessed with intent to use, in violation of criminal provisions of the Copyright Law, Section 506(a).

(2) Consider obtaining search warrants for search of premises utilized by distributor, wholesaler, retailer or others and subsequent seizure of contraband located. A copy of complete inventory of items seized must be left on premises searched, along with a copy of the search warrant.

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(3) In searching, be alert for evidence of existence of other locations for storage of alleged items utilized by subject, customer records, and information regarding distributors of raw materials. If located, obtain search warrant if consent to search cannot be obtained.

(4) Note that in conducting searches, all pirated sound recordings may be seized whether pre-2-15-72 or post-2-15-72.

(5) Because of decisions in the First and Ninth Circuit Courts of Appeal, the DOJ has advised care should be exercised in describing, both on the face of the warrant and in the affidavit, the property (i.e., pirated copies) to be seized. For example, the affidavit should describe with some degree of particularity the various ways in which pirated copies of copyrighted sound recordings or motion pictures differ from their legitimate counterparts. The description on the face of the warrant should make reference to the particular description in the affidavit. Also, Agents should detail their experience and expertise in detecting pirate copies.

EFFECTIVE: 09/20/89

28-4.3 Seizures Without a Warrant

According to DOJ, pirated sound recordings and motion picture films which are being sold in public (street vendors, flea markets, etc.) can be seized without a search warrant, providing the USA in the district in which the search is conducted concurs with this procedure. The basis for this warrantless seizure is the fact that an offense is being committed in the presence of an Agent, and there is no expectation of privacy; therefore, a warrant is not necessary. The sound recordings and films seized must be displayed openly and in a public place where the Agent has a right to be present as a member of the public. In order to establish the profit element of the Copyright Statute, Agent must purchase one or more of the pirate copies or witness the sale of a pirate copy. [REDACTED]

[REDACTED] This procedure for warrantless seizures is limited to open-air, transient and movable locations. In those instances where retail stores are concerned, warrants should be obtained.

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EFFECTIVE: 09/20/89

28-4.4 Forfeiture and Destruction

(1) Title 17, Sections 509 (a) and (b) provide that "all copies or phonorecords manufactured, reproduced, distributed, sold or otherwise used, intended for use, or possessed with intent to use in violation of (the Copyright Law), and all plates, molds, matrices, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced, and all electronic, mechanical, or other devices for manufacturing, reproducing or assembling such copies or phonorecords may be seized and forfeited to the United States." The FBI has been delegated authority to institute civil administrative forfeiture proceedings pursuant to Section 509. The Forfeiture and Abandoned Property Manual contains the step-by-step procedure to be followed for seizures and civil forfeiture proceedings (judicial and administrative) conducted in conjunction with this violation.

(2) Title 17, Section 506(b) of the Copyright Law provides that when any person is convicted of any violation of subsection (a) (criminal infringement) the court in its judgment of conviction shall, in addition to the usual penalty, order the forfeiture and destruction or other disposition of all infringing copies or phonorecords and all implements, devices or equipment used in the manufacture of such infringing copies or phonorecords.

(3) Title 18, Section 2318(d) provides that when any person convicted of any violation of Title 18, USC, Section 2318(a) (Trafficking in Counterfeit Labels), the court in its judgment of conviction shall, in addition to the penalty therein described, order the forfeiture and destruction or other disposition of all counterfeit labels and all articles to which counterfeit labels have been affixed or which were intended to have had such labels affixed.

EFFECTIVE: 09/20/89

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28-4.5 Examination by Technical Services Division

(1) In sound recording violations, send suspected pirate sound recordings to Technical Services Division (TSD) for aural comparisons with legitimate sound recordings. Request should also be made for examination of labels and slip jackets, if appropriate, which will be conducted by the Laboratory.

(2) An authorized copy of the copyrighted sound recording should be obtained from the manufacturer or the manufacturer's representative and submitted at the same time the sound recording is submitted to the Technical Services Division (TSD).

(3) The chain of custody of the authorized copy of the copyrighted sound recording must be maintained and this authorized copy must be dated and initialed by the manufacturer's representative who will be available to testify as to the ownership of the copyright and the existence of any licensing agreements.

(4) Prior to requesting comparison by TSD

(a) Secure copyright verification

(b) Contact USA to determine whether USA will prosecute in the event TSD determines suspected copies are pirated, and, if so, number of counts USA desires to charge for a determination as to number of suspected sound recordings that should be sent for comparison. If USA does not intend to prosecute, there is no need to request comparison by TSD.

EFFECTIVE: 06/18/87

28-5 VENUE

Where offense is committed, begun, or completed.

EFFECTIVE: 06/18/87

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28-6 DISCLOSURE TO PRIVATE SECTOR

(1) Pursuant to the published routine uses of information maintained in the FBI central records system, we are authorized to disclose certain information relative to a copyright matter investigation to the copyright proprietor injured by the infringement of the copyright, in order to assist him/her in the initiation or maintenance of a civil copyright infringement action against the person charged with the violation.

(2) In accordance with departmental recommendations, it is preferable for the copyright proprietor to initiate the civil action, after which the plaintiff in the case can avail himself/herself of civil discovery to request testimony of FBI personnel involved in the investigation, for which the Department normally will give approval.

(3) Where the copyright proprietor claims he/she has insufficient information to institute a suit, he/she must be able to demonstrate a specific need for our information, the release of which is always discretionary. Where disclosure appears warranted, it must be restricted to only that which is needed for initiation of the suit. Usually a list of pirated material and the identity and location of the person charged with the copyright infringement will suffice for this purpose.

(4) Requests for information relative to suspects or others not actually charged with a violation of Title 17, U.S. Code, should ordinarily be denied, as disclosure could constitute an unwarranted invasion of individual privacy under current, applicable standards.

EFFECTIVE: 06/18/87

28-7 PENALTIES

(1) Title 17, Section 506(a) - Criminal Infringement - Penalties for violation of Section 506(a) are set forth in Title 18, USC, Section 2319 and are as follows:

(a) Those who reproduce or distribute 1,000 or more unauthorized sound recordings or 65 or more unauthorized copies of a motion picture or audiovisual work during any 180-day period, the maximum penalty is five years' imprisonment and/or a \$250,000 fine.

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(b) Those that reproduce or distribute more than 100 but less than 1,000 unauthorized sound recordings, or more than 7 but less than 65 unauthorized copies of a motion picture or audiovisual work during any 180-day period, the maximum penalty is two years' imprisonment and/or a \$250,000 fine.

(c) Those that reproduce or distribute 100 or less unauthorized copies of a sound recording or 7 or less unauthorized copies of a motion picture or audiovisual work during a 180-day period, or where more than 180 days has elapsed between violations, the maximum penalty is one-year imprisonment and/or a \$25,000 fine.

(2) Title 17, Section 506(c) - Maximum penalty is a fine of not more than \$2,500.

(3) Title 17, Section 506(d) - Maximum penalty is a fine of not more than \$2,500.

(4) Title 17, Section 506(e) - Maximum penalty is a fine of not more than \$2,500.

(5) Title 18, Section 2318 - Trafficking in Counterfeit Labels - Maximum penalty is a fine of not more than \$250,000 and/or imprisonment for not more than five years.

NOTE: The statute of limitations on violations of Title 17 is three years.

EFFECTIVE: 06/18/87

28-8

CHARACTER - COPYRIGHT MATTER

EFFECTIVE: 06/18/87



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SECTION 29. FINANCIAL INSTITUTION FRAUD

29-1 BACKGROUND

(1) On October 12, 1984, the President signed the Comprehensive Crime Control Act of 1984 which became Public Law 98-473. This act amended Title 18 of the United States Code (USC), by amending Section 215 "Receipt of Commissions or Gifts for Procuring Loans," deleting Section 216, creating Section 1344 "Bank Fraud" and Section 1345 "Injunctions Against Fraud." (See MIOG, Part I, 192-5 (3).)

(2) On August 3, 1986, the President signed a revision of Title 18, USC, Section 215, entitled "Bank Bribery Amendments Act of 1985."

(3) On August 9, 1989, the President signed the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) which became Public Law 101-73. This act specifically addressed the ten banking-related offenses which consist of Title 18, United States Code (USC), Sections 215 (Bribery), 656 and 657 (Embezzlement/Misapplication), 1005 and 1006 (False Entries), 1007 (Federal Deposit Insurance Corporation Transactions), 1014 (False Statements), 1344 (Bank Fraud), 1341 (Mail Fraud), and 1343 (Wire Fraud), if the Mail Fraud and Wire Fraud offenses involved a federally insured financial institution. This act:

(a) increased maximum penalties for violation of each of the ten banking-related offenses to 20 years' imprisonment and/or \$1,000,000 fine (the Crime Control Act of 1990 increased the maximum penalties for violation of the ten banking-related offenses from 20 years to 30 years' imprisonment);

(b) increased the Statute of Limitations for the ten banking-related offenses from five years to 10 years, including those offenses for which the Statute of Limitations had not expired as of August 9, 1989;

(c) amended Title 18, USC, Section 1961, the Racketeer Influenced and Corrupt Organizations (RICO) Statute, to add Title 18, USC, Section 1344 (Bank Fraud) as a RICO predicate offense;

(d) amended Title 18, USC, Section 1510 (Obstruction

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of Justice) to prohibit an officer, director, partner, or employee of, or an agent or attorney for, a financial institution to disclose the existence or contents of federal grand jury subpoenas for records issued in connection with investigations of possible violations of the ten banking-related offenses. The maximum term of imprisonment is five years if the disclosure is made to any person with the intent to obstruct a judicial proceeding, or one year if the disclosure is made to a customer or any other person named in the subpoena;

(e) provided for civil forfeiture in connection with eight banking offenses (excluding Mail Fraud and Wire Fraud) and authorized criminal forfeiture upon conviction of any of the ten banking-related offenses, or conspiracy to commit any of these ten offenses;

(f) required that the U.S. Sentencing Commission promulgate sentencing guidelines for ten banking-related offenses that "provide for a substantial period of incarceration" if the offense substantially jeopardizes the safety and soundness of a federally insured financial institution;

(g) authorized the Attorney General to bring civil actions to recover civil penalties for violations of ten banking-related offenses;

(h) authorized the federal banking agencies to pay a reward for information which leads to the recovery of over \$50,000 through restitution, criminal fine, civil money penalty or forfeiture. The maximum reward cannot exceed the lesser of 25 percent of the recovery or \$100,000;

(i) created a new cause of action, or "whistleblower" protection, for financial institution employees who are fired because they provided information about alleged violations to a banking agency or DOJ. Persons who are involved in alleged violations or who provided substantially false information will not be able to pursue such actions;

(j) amended the Fair Credit Reporting Act to provide specifically that a credit reporting agency must furnish consumer credit report records when served with a federal grand jury (FGJ) subpoena for those records;

(k) authorized the disclosure of FGJ information to a federal banking agency for use in relation to any matter within the agency's jurisdiction, if a court finds that there is a "substantial

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need" for the disclosure;

(l) authorized the disclosure of FGJ information concerning a banking law violation, without a court order, to an attorney for the government for use in enforcing a related civil forfeiture proceeding;

(m) added additional exceptions to Section 1113 of the Right to Financial Privacy Act of 1978, permitting the disclosure of information to federal banking agencies relevant to the examination, conservatorship, or receivership of financial institutions;

(n) abolished the Federal Home Loan Bank Board (FHLBB) and the position of the Chairman of FHLBB as the chief regulator of the savings and loan industry;

(o) established the Office of Thrift Supervision, within the Department of the Treasury, to regulate the savings and loan industry;

(p) gave the Federal Deposit Insurance Corporation (FDIC) the duty of insuring the deposits of savings associations, in addition to banks. Insurance funds relating to banks and savings associations are to be administered separately by FDIC through the Bank Insurance Fund (BIF) and the Savings Association Insurance Fund (SAIF), respectively;

(q) established the Federal Savings and Loan Insurance Corporation (FSLIC) Resolution Fund, managed by FDIC, to assume the assets and liabilities of FSLIC and close out its affairs;

(r) authorized FDIC to act as a conservator or receiver for federally insured banks and savings associations. This gives FDIC the authority to operate an institution as a going concern, facilitate its merger or acquisition, or liquidate the institution;

(s) established the Resolution Trust Corporation (RTC) to resolve the affairs of failed and insolvent savings associations. The RTC is to be exclusively managed and staffed by FDIC and will exercise the FDIC's conservatorship and receivership powers; (See (6).)

(t) abolished the Federal Asset Disposition Association (FADA), the assets of which are to be liquidated by the RTC within 180 days of enactment;

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(u) broadened the group of individuals and entities covered by the Federal Deposit Insurance Act and Federal Credit Union Act by substituting the new term "institution-affiliated party," and replacing the term "bank" with "depository institution" so that enforcement provisions are applicable to both banks and savings associations;

(v) authorized federal banking agencies to take enforcement actions against "institution-affiliated parties" for up to six years following resignation or other departure from a financial institution, retroactively applied;

(w) substantially increased the maximum amount for civil money penalties, expanded the scope of misconduct covered by civil money penalty provisions, and authorized federal banking agencies to take action to collect these penalties;

(x) increased the criminal penalty for participation in the affairs of a depository institution in violation of a removal order to a maximum of five years' imprisonment and \$1,000,000 fine;

(y) broadened the prohibition against participation in the affairs of insured depository institutions by persons who have been convicted of any criminal offense involving dishonesty or breach of trust, and increased the maximum criminal penalty to five years' imprisonment and \$1,000,000 per day fine;

(z) added state criminal charges as grounds for removal of an "institution-affiliated party" from a financial institution;

(aa) required the federal banking agencies to jointly establish their own pool of administrative law judges, and to develop a set of uniform administrative rules and procedures within 24 months;

(bb) mandated an interagency task force study of the desirability and feasibility of the delegation of additional investigative and enforcement authority to the regional offices of the federal banking agencies; and

(cc) added the Securities and Exchange Commission as one of the agencies which may share information under Section 1112(e) of the Right to Financial Privacy Act of 1978.

(4) On November 29, 1990, the President signed the "Crime

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Control Act of 1990 (CCA)." The CCA affects all criminal investigative programs of the FBI with Title XXV of CCA, "The Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990" most affecting the area of financial institution fraud. Title XXV:

(a) established Title 18, U.S. Code (USC), Section 1032, as a criminal offense for concealing assets from the Federal Deposit Insurance Corporation (FDIC), the Resolution Trust Corporation (RTC), any conservator appointed by the Comptroller of the Currency or the Director of the Office of Thrift Supervision, or the National Credit Union Administration Board, acting as conservator or liquidating agent;

(b) established Title 18, USC, Section 1517, concerning the obstruction of an examination of financial institution by any agency of the United States;

(c) established Title 18, USC, Section 225, (Financial Crime Kingpin Statute), which makes it a crime to engage in a continuing financial crime enterprise. The enterprise is defined as bank frauds that involve four or more persons from which any one person has received \$5 million or more in a 24-month period. The penalty for the Kingpin Statute is ten years to life and/or \$10 million fine for individuals or \$20 million for corporations;

(d) increased maximum penalties for violation of the ten banking-related offenses from 20 years' to 30 years' imprisonment;

(e) prohibits certain convicted persons, such as those convicted of any of the bank-related statutes, from participating in or controlling a depository institution, for a minimum period of ten years, except by order of the sentencing court;

(f) established a 10-year statute of limitations for RICO offenses involving financial institutions;

(g) authorized wiretap (Title III) authority for bank fraud and related offenses;

(h) stipulated that the U.S. Sentencing Commission shall promulgate guidelines such that offenders of certain bank fraud statutes be assigned an offense level not less than level 24 under Chapter 2;

(i) made fraudulent transfers of a financial

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institution voidable if they occur within five years before the appointment of a conservator or receiver;

(j) made certain financial institution fraud debts nondischargeable in bankruptcy. It also disallowed the use of bankruptcy to evade depository institution capital commitments;

(k) prohibited certain convicted debtors from purchasing the assets of any insured depository institution;

(l) extended the statute of limitations for civil penalties under FIRREA to 10 years.

(m) increased the list of crimes for which civil forfeiture is available.

(n) requires the Attorney General to compile and collect extensive data on the nature and number of financial institutions investigations, prosecutions, and enforcement proceedings and report monthly to Congress through 12/31/91 and quarterly thereafter.

(o) created an Office of Special Counsel for Financial Institution Fraud (five-year sunset provision) within the Office of the Deputy Attorney General, DOJ, to supervise and coordinate investigations and prosecutions of financial institution fraud. The Special Counsel is to ensure that federal laws relating to financial institution fraud are utilized to the fullest extent possible, including civil enforcement, asset seizure, forfeiture, money laundering and racketeering, and that adequate resources are devoted to financial institution fraud;

(p) directed the Attorney General to establish Financial Institution Fraud Task Forces;

(q) directed the Attorney General to establish a Senior Interagency Group to assist in identifying the most significant financial institution fraud cases and promote interagency coordination as a tool to fight financial institution fraud;

(r) established an eight-member National Commission to examine and identify the origin and causes of the S & L crisis. This commission will have the power to conduct hearings, receive evidence, and subpoena witnesses. The Commission is required to submit a detailed report to the President within nine months of electing a chairperson;

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(s) provides a mechanism, "declarations" for private citizens (declarant) to bring forward information that the government is unaware of, which would help in civil and criminal financial institution fraud cases. Declarant CANNOT have participated in the underlying illegal activities or profited from them. Declarant, if the information they provided is relied upon in securing a criminal conviction, may receive between \$5,000 and \$100,000. They may also receive a percentage (maximum \$1.6 million) of any recovery by the U.S. based on their declaration;

(t) provides rewards up to \$50,000 to informants, individuals who provide tips or leads but are NOT declarants, if their information leads to a conviction, whether or not the U.S. actually recovers assets from the offender.

(5) On November 30, 1992, Section 1542 of the Housing and Community Development Act of 1992 was enacted which requires that, unless otherwise prohibited by law, the heads of federal agencies will disclose to the appropriate federal financial institution regulatory agencies any information that is believed to raise significant concerns regarding the "safety and soundness" of any depository institution doing business in the United States. This Act ensures that information necessary to protect depositors at our Nation's depository institutions is forwarded in a timely manner to the appropriate regulatory agencies. (See MIOG, Part I, 29-2.2.3 & 29-6.5.)

(6) Pursuant to the terms of the Resolution Trust Corporation (RTC) Completion Act, the RTC ceased to exist as of 12/31/95. All remaining RTC matters have been transferred to the Federal Deposit Insurance Corporation (FDIC).

EFFECTIVE: 11/21/96

29-2 STATUTES, PENALTIES AND DEFINITIONS

EFFECTIVE: 06/26/91

29-2.1 Statutes and Penalties

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29-2.1.1 Section 212. Offer of Loan or Gratuity to Bank Examiner

"Whoever, being an officer, director or employee of a financial institution which is a member of the Federal Reserve System or the deposits of which are insured by the Federal Deposit Insurance Corporation, or of any National Agricultural Credit Corporation, or of any Farm Credit Bank, bank for cooperatives, production credit association, Federal land bank association, agricultural credit association, Federal land credit association, service organization chartered under section 4.26 of the Farm Credit Act of 1971, the Farm Credit System Financial Assistance Corporation, the Federal Agricultural Mortgage Credit Corporation, the Federal Farm Credit Banks Funding Corporation, the National Consumer Cooperative Bank, or other institution subject to examination by a Farm Credit Administration examiner, or of any small business investment company, makes or grants any loan or gratuity, to any examiner or assistant examiner who examines or has authority to examine such bank, corporation, or institution, shall be fined not more than \$5,000 or imprisoned not more than one year, or both; and may be fined a further sum equal to the money so loaned or gratuity given.

"The provisions of this section and section 213 of this title shall apply to all public examiners and assistant examiners who examine member banks of the Federal Reserve System or insured financial institutions, or National Agricultural Credit Corporations, whether appointed by the Comptroller of the Currency, by the Board of Governors of the Federal Reserve System, by a Federal Reserve Agent, by a Federal Reserve bank, by the Federal Deposit Insurance Corporation, by the Office of Thrift Supervision, or by the Federal Housing Finance Board, or appointed or elected under the laws of any state; but shall not apply to private examiners or assistant examiners employed by a clearing-house association or by the directors of a bank."

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29-2.1.2 Section 213. Acceptance of Loan or Gratuity by Bank Examiner

"Whoever, being an examiner or assistant examiner of member banks of the Federal Reserve System or financial institutions the deposits of which are insured by the Federal Deposit Insurance Corporation, or a farm credit examiner or examiner of National Agricultural Credit Corporations, or an examiner of small business investment companies, accepts a loan or gratuity

from any bank, corporation, association or organization examined by him or from any person connected herewith, shall be fined not more than \$5,000 or imprisoned not more than one year, or both; and may be fined a further sum equal to the money so loaned or gratuity given, and shall be disqualified from holding office as such examiner."

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29-2.1.3 Section 214. Offer for Procurement of Federal Reserve Bank Loan and Discount of Commercial Paper

"Whoever stipulates for or gives or receives, or consents or agrees to give or receive, any fee, commission, bonus, or thing of value for procuring or endeavoring to procure from any Federal Reserve bank any advance, loan, or extension of credit or discount or purchase of any obligation or commitment with respect thereto, either directly from such Federal Reserve bank or indirectly through any financing institution, unless such fee, commission, bonus, or thing of value and all material facts, with respect to the arrangement or understanding therefor shall be disclosed in writing in the application or request for such advance, loan, extension of credit, discount, purchase, or commitment, shall be fined not more than \$5,000 or imprisoned not more than one year, or both."

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29-2.1.4 Section 215. Receipt of Commissions or Gifts for  
Procuring Loans

"(a) Whoever--

"(1) corruptly gives, offers, or promises anything of value to any person, with intent to influence or reward an officer, director, employee, agent, or attorney of a financial institution in connection with any business or transaction of such institution; or

"(2) as an officer, director, employee, agent, or attorney of a financial institution, corruptly solicits or demands for the benefit of any person, or corruptly accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business or transaction of such institution; shall be fined not more than \$1,000,000 or three times the value of the thing given, offered, promised, solicited, demanded, accepted, or agreed to be accepted, whichever is greater, or imprisoned not more than 30 years, or both; but if the value of the thing given, offered, promised, solicited, demanded, accepted, or agreed to be accepted does not exceed \$100, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

"(c) (sic) This section shall not apply to bona fide salary, wages, fees, or other compensation paid, or expenses paid or reimbursed, in the usual course of business.

"(d) (sic) Federal agencies with responsibility for regulating a financial institution shall jointly establish such guidelines as are appropriate to assist an officer, director, employee, agent, or attorney of a financial institution to comply with this section. Such agencies shall make such guidelines available to the public."

Note: Four versions of section 215 are in force. The first is applicable to offenses occurring prior to October 12, 1984. The second applies to offenses occurring in the period beginning October 12, 1984, and ending September 2, 1986. The third is applicable to offenses occurring in the period beginning September 3, 1986, and ending August 9, 1989, when FIRREA was signed into law. The fourth applies to offenses occurring after the signing into law of FIRREA, August 9, 1989.

Note: Alternative fine provisions are contained in Title 18, USC, Section 3571.

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29-2.1.5 | Section 225. Continuing Financial Crime Enterprise

"(a) Whoever

"(1) organizes, manages, or supervises a continuing financial crimes enterprise; and

"(2) receives \$5,000,000 or more in gross receipts from such enterprise during any 24-month period,

"shall be fined not more than \$10,000,000 if an individual, or \$20,000,000 if an organization, and imprisoned for a term of not less than 10 years and which may be life.

"(b) for purposes of subsection (a), the term 'continuing financial crimes enterprise' means a series of violations under section 215, 656, 657, 1005, 1006, 1007, 1014, 1032, or 1344 of this title, or section 1341 or 1343 affecting a financial institution, committed by at least 4 persons acting in concert."

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29-2.1.6 | Section 334. Issuance of Federal Reserve or National Bank Notes

"Whoever, being a Federal Reserve Agent, or an agent or employee of such Federal Reserve Agent, or of the Board of Governors of the Federal Reserve System, issues or puts in circulation any Federal Reserve notes, without complying with or in violation of the provisions of law regulating the issuance and circulation of such Federal Reserve notes; or

"Whoever, being an officer acting under the provisions of chapter 2 of Title 12, countersigns or delivers to any national banking association, or to any other company or person, any circulating notes contemplated by that chapter except in strict accordance with its provisions--

"Shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

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||29-2.1.7| Section 655. Theft by Bank Examiner

"Whoever, being a bank examiner or assistant examiner, steals, or unlawfully takes, or unlawfully conceals any money, note, draft, bond, or security or any other property of value in the possession of any bank or banking institution which is a member of the Federal Reserve System or which is insured by the Federal Deposit Insurance Corporation, or from any safe deposit box in or adjacent to the premises of such bank, shall be fined not more than \$5,000 or imprisoned not more than five years, or both; but if the amount taken or concealed does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and shall be disqualified from holding office as a national bank examiner or Federal Deposit Insurance Corporation examiner.

"This section shall apply to all public examiners and assistant examiners who examine member banks of the Federal Reserve System or banks the deposits of which are insured by the Federal Deposit Insurance Corporation, whether appointed by the Comptroller of the Currency, by the Board of Governors of the Federal Reserve System, by a Federal Reserve Agent, by a Federal Reserve bank, or by the Federal Deposit Insurance Corporation, or appointed or elected under the laws of any State; but shall not apply to private examiners or assistant examiners employed only by a clearinghouse association or by the directors of a bank."

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||29-2.1.8| Section 656. Theft, Embezzlement, or Misapplication by Bank Officer or Employee

"Whoever, being an officer, director, agent or employee of, or connected in any capacity with any Federal Reserve bank, member bank, national bank or insured bank, or a receiver of a national bank, or any agent or employee of the receiver, of a Federal Reserve Agent, or an agent or employee of a Federal Reserve Agent or of the Board of Governors of the Federal Reserve System, embezzles, abstracts, purloins or willfully misapplies any of the moneys, funds or credits of such bank or any moneys, funds, assets or securities intrusted to

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the custody or care of such bank, or to the custody or care of any such agent, officer, director, employee or receiver, shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both; but if the amount embezzled, abstracted, purloined or misapplied does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

"As used in this section, the term 'national bank' is synonymous with 'national banking association'; 'member bank' means and includes any national bank, state bank, or bank and trust company which has become a member of one of the Federal Reserve banks; and 'insured bank' includes any bank, banking association, trust company, savings bank, or other banking institution, the deposits of which are insured by the Federal Deposit Insurance Corporation."

Note: Alternative fine provisions are contained in Title 18, USC, Section 3571.

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| 29-2.1.9 | Section 657. Lending, Credit and Insurance Institutions

"Whoever, being an officer, agent or employee of or connected in any capacity with the Reconstruction Finance Corporation, Federal Deposit Insurance Corporation, National Credit Union Administration, Home Owners' Loan Corporation, Farm Credit Administration, Department of Housing and Urban Development, Federal Crop Insurance Corporation, Farmers' Home Corporation, the Secretary of Agriculture acting through the Farmers' Home Administration, or the Farm Credit System Insurance Corporation, a Farm Credit Bank, a bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States or any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, or by the National Credit Union Administration Board or any small business investment company, and whoever, being a receiver of any such institution, or agent or employee of the receiver, embezzles, abstracts, purloins or willfully misapplies any moneys, funds, credits, securities or other things of value belonging to such institution, or pledged or otherwise intrusted to its care, shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both; but if the amount or value embezzled, abstracted, purloined or misapplied does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

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Note: Alternative fine provisions are contained in Title 18, USC, Section 3571.

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||29-2.1.10| Section 658. Property Mortgaged or Pledged to Farm Credit Agencies

"Whoever, with intent to defraud, knowingly conceals, removes, disposes of, or converts to his own use or to that of another, any property mortgaged or pledged to, or held by, the Farm Credit Administration, any Federal intermediate credit bank, or the Federal Crop Insurance Corporation, Farmers' Home Corporation, the Secretary of Agriculture acting through the Farmers' Home Administration, any production credit association organized under sections 1131-1134m of Title 12, any regional agricultural credit corporation, or any bank for cooperatives, shall be fined not more than \$5,000 or imprisoned not more than five years, or both; but if the value of such property does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

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||29-2.1.11| Section 1004. Certification of Checks

"Whoever, being an officer, director, agent, or employee of any Federal Reserve bank or member bank of the Federal Reserve System, certifies a check before the amount thereof has been regularly deposited in the bank by the drawer thereof, or resorts to any device, or receives any fictitious obligation, directly or collaterally, in order to evade any of the provisions of law relating to certification of checks, shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

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||29-2.1.12| Section 1005. Bank Entries, Reports and Transactions

"Whoever, being an officer, director, agent or employee of any Federal Reserve bank, member bank, bank or savings and loan holding company, national bank or insured bank, without authority from the directors of such bank, issues or puts in circulation any notes of such bank; or

"Whoever, without such authority, makes, draws, issues, puts forth, or assigns any certificate of deposit, draft, order, bill of exchange, acceptance, note, debenture, bond, or other obligation, or mortgage, judgment or decree; or

"Whoever makes any false entry in any book, report, or statement of such bank or company with intent to injure or defraud such bank or company, or any other company, body politic or corporate, or any individual person, or to deceive any officer of such bank or company, or the Comptroller of the Currency, or the Federal Deposit Insurance Corporation, or any agent or examiner appointed to examine the affairs of such bank or company, or the Board of Governors of the Federal Reserve System;

"Whoever, with intent to defraud the United States or any Agency thereof, or any financial institution referred to in this section, participates or shares in or receives (directly or indirectly) any money, profit, property, or benefits through any transaction, loan commission, contract, or any other act of any such financial institution--

"Shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

"As used in this section, the term 'national bank' is synonymous with 'national banking association'; 'member bank' means and includes any national bank, state bank, or bank or trust company, which has become a member of one of the Federal Reserve banks; an 'insured bank' includes any state bank, banking association, trust company, savings bank, or other banking institution, the deposits of which are insured by the Federal Deposit Insurance Corporation."

Note: Alternative fine provisions are contained in Title 18, USC, Section 3571.

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||29-2.1.13| Section 1006. Federal Credit Institution Entries, Reports  
and Transactions

"Whoever, being an officer, agent or employee of or connected in any capacity with the Reconstruction Finance Corporation, Federal Deposit Insurance Corporation, National Credit Union Administration, Home Owners' Loan Corporation, Farm Credit Administration, Department of Housing and Urban Development, Federal Crop Insurance Corporation, Farmers' Home Corporation, the Secretary of Agriculture acting through the Farmers' Home Administration, or the Farm Credit System Insurance Corporation, a Farm Credit Bank, a bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States or any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation or by the National Credit Union Administration Board, or any small business investment company, with intent to defraud any such institution or any other company, body politic or corporate, or any individual, or to deceive any officer, auditor, examiner or agent of any such institution or of department or agency of the United States, makes any false entry in any book, report or statement of or to any such institution, or without being duly authorized, draws any order or bill of exchange, makes any acceptance, or issues, puts forth or assigns any note, debenture, bond or other obligation, or draft, bill of exchange, mortgage, judgment, or decree, or, with intent to defraud the United States or any agency thereof, or any corporation, institution, or association referred to in this section, participates or shares in or receives directly or indirectly any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such corporation, institution, or association, shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both."

Note: Alternative fine provisions are contained in Title 18, USC, Section 3571.

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||29-2.1.14| Section 1007. Federal Deposit Insurance Corporation Transactions

"Whoever, for the purpose of influencing in any way the action of the Federal Deposit Insurance Corporation, knowingly makes or invites reliance on a false, forged or counterfeit statement, document, or thing

"shall be fined not more than \$1,000,000 or imprisoned, not more than 30 years, or both."

Note: Alternative fine provisions are contained in Title 18, USC, Section 3571.

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||29-2.1.15| Section 1011. Federal Land Bank Mortgage Transactions

"Whoever, being a mortgagee, knowingly makes any false statement in any paper, proposal, or letter, relating to the sale of any mortgage, to any Federal land bank; or

"Whoever, being an appraiser, willfully overvalues any land securing such mortgage--

"Shall be fined not more than \$5,000 or imprisoned not more than one year, or both."

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||29-2.1.16| Section 1013. Farm Loan Bonds and Credit Bank Debentures

"Whoever deceives, defrauds, or imposes upon, or attempts to deceive, defraud, or impose upon any person, partnership, corporation, or association by making any false pretense or representation concerning the character, issue, security, contents, conditions, or terms of any farm loan bond, or coupon, issued by any Federal land bank or banks; or of any debenture, coupon, or other obligation, issued by any Federal intermediate credit bank or banks, or by any National Agricultural Credit Corporation; or by falsely pretending or representing that any farm loan bond, or coupon, is anything other than, or different from, what it purports to be on the

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face of said bond or coupon, shall be fined not more than \$500 or imprisoned not more than one year, or both."

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[29-2.1.17] Section 1014. Loan and Credit Applications Generally;  
Renewals and Discounts; Crop Insurance

"Whoever knowingly makes any false statement or report, or willfully overvalues any land, property or security, for the purpose of influencing in any way the action of the Reconstruction Finance Corporation, Farm Credit Administration, Federal Crop Insurance Corporation, Farmers' Home Corporation, the Secretary of Agriculture acting through the Farmers' Home Administration, any Farm Credit Bank, production credit association, agricultural credit association, bank for cooperatives, or any division, officer, or employee thereof, or of any regional agricultural credit corporation established pursuant to law, or of the National Agricultural Credit Corporation, a Federal land bank, a Federal land bank association, a Federal Reserve bank, a small business investment company, a Federal credit union, an insured State-chartered credit union, any institution the accounts of which are insured by the Farm Credit System Insurance Corporation, the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Federal Home Loan Bank System, National Credit Union Administration Board, upon any application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, or loan, or any change or extension of any of the same, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both."

Note: Alternative fine provisions are contained in Title 18, USC, Section 3571.

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29-2.1.18 | Section 1032. Concealment of Assets from Conservator,  
Receiver, or Liquidating Agent of Financial Institution

"Whoever

"(1) knowingly conceals or endeavors to conceal an asset or property from the Federal Deposit Insurance Corporation, acting as conservator or receiver or in the Corporation's corporate capacity with respect to any asset acquired or liability assumed by the Corporation under section 11, 12, or 13, of the Federal Deposit Insurance Act, the Resolution Trust Corporation, any conservator appointed by the Comptroller of the Currency or the Director of the Office of Thrift Supervision, or the National Credit Union Administration Board, acting as conservator or liquidating agent;

"(2) corruptly impedes or endeavors to impede the functions of such Corporation, Board, or conservator, or

"(3) corruptly places or endeavors to place an asset or property beyond the reach of such Corporation, Board, or conservator, shall be fined under this title or imprisoned not more than 5 years or both."

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29-2.1.19 | Section 1306. Participation by Financial Institutions

"Whoever knowingly violates section 5136A of the Revised Statutes of the United States, section 9A of the Federal Reserve Act, or section 20 of the Federal Deposit Insurance Act, shall be fined not more than \$1,000 or imprisoned not more than one year, or both."  
(See 29-2.1.27 below.)

Note: Alternative fine provisions are contained in Title 18, USC, Section 3571.

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||29-2.1.20| Section 1341. Mail Fraud

FIRREA and the CCA amended Section 1341 by providing a penalty of up to 30 years' imprisonment and a \$1,000,000 fine for violations affecting a financial institution. See MIOG, Part I, Section 36 for the statute and elements.

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29-2.1.21 Section 1343. Wire Fraud

FIRREA and the CCA amended Section 1343 by providing a penalty of up to 30 years' imprisonment and a \$1,000,000 fine for violations affecting a financial institution. See MIOG, Part I, Section 196.

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||29-2.1.22| Section 1344. Bank Fraud

"Whoever knowingly executes, or attempts to execute, a scheme or artifice--

"(1) to defraud a financial institution; or

"(2) to obtain any of the moneys, funds, credits, assets, securities or other property owned by or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises; shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both."

Note: Alternative fine provisions are contained in Title 18, USC, Section 3571.

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||29-2.1.23| Section 1345. Injunctions Against Fraud

"Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a violation of this chapter (Title 18, USC), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such violation. The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action, as is warranted to prevent a continuing and substantial injury to the United States or to any person or class of persons for whose protection the action is brought. A proceeding under this section is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure."

EFFECTIVE: 06/26/91

||29-2.1.24| Section 1510. Obstruction of Criminal Investigations

"(a) Whoever willfully endeavors by means of bribery to obstruct, delay, or prevent the communication of information relating to a violation of any criminal statute of the United States by any person to a criminal investigator shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

"(b) (1) Whoever, being an officer of a financial institution, with the intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records of that financial institution, or information that has been furnished to the grand jury in response to that subpoena, shall be fined under this title or imprisoned not more than 5 years, or both.

"(2) Whoever, being an officer of a financial institution, directly or indirectly notifies--

"(A) a customer of that financial institution whose records are sought by a grand jury subpoena; or

"(B) any other person names in that subpoena; about the existence or contents of that subpoena or information that has been furnished to the grand jury in response to that subpoena,

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shall be fined under this title or imprisoned not more than one year, or both.

"(3) As used in this subsection--

"(A) the term 'an officer of a financial institution' means an officer, director, partner, employee, agent, or attorney of or for a financial institution; and

"(B) the term 'subpoena for records' means a Federal grand jury subpoena for customer records that has been served relating to a violation of, or a conspiracy to violate--

"(i) section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344; or

"(ii) section 1341 or 1343 affecting a financial institution.

"(C) As used in this section, the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations of or prosecutions for violations of the criminal laws of the United States."

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29-2.1.25 Section 1517. Obstructing Examination of Financial Institution

"Whoever corruptly obstructs or attempts to obstruct any examination of a financial institution by an agency of the United States with jurisdiction to conduct an examination of such financial institution shall be fined under this title, imprisoned not more than 5 years, or both."

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||29-2.1.26| Section 3293. Statute of Limitations

"No person shall be prosecuted, tried, or punished for a violation of, or a conspiracy to violate--

"(1) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, or 1344; or

"(2) section 1341 or 1343, if the offense affects a financial institution;

unless the indictment is returned or the information is filed within 10 years after the commission of the offense."

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||29-2.1.27| Other Statutes

(1) In addition to the above sections, Title 12, USC, Sections 25a, 339, and 1829a, respectively, prohibit certain other activities: Financial institutions may not deal in lottery tickets; deal in bets used as a means or substitute for participation in a lottery; announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery; permit the use of any part of their own offices by any person for any purpose forbidden above.

(2) These institutions are not prohibited from accepting deposits or handling checks or other negotiable instruments or performing other lawful banking services for a state operating a lottery, or for an employee of that state charged with the administration of the lottery. (See|29-2.1.19|above.)

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29-2.2 Definitions

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29-2.2.1 Criminal Acts

As used in the preceding sections, the below acts are defined:

(1) Embezzlement -

To "embezzle" means willfully to take, or convert to one's own use, another's money or property, of which the wrongdoer acquired possession lawfully, by reason of some office or employment or position of trust. The elements of "embezzlement" are that there must be relationship such as that of employment or agency between the owner of the money and the defendant, the money alleged to have been embezzled must have come into the possession of defendant by virtue of that relationship and there must be an intentional and fraudulent appropriation or conversion of the money. If embezzlement is charged, the conversion alleged may not be to some third party other than the embezzler himself/herself.

(2) Abstraction -

Abstraction is the act of one who, being an officer of a financial institution, wrongfully takes or withdraws moneys, funds or credits with the intent to injure or defraud the financial institution or some other person, and without the financial institution's or board of directors' knowledge or consent, converts them to the use of oneself or some other person or entity other than the financial institution.

(3) Misapplication -

The term "misapplication" means a willful and unlawful misuse of moneys, funds or credit of the financial institution made with intent to injure or defraud the financial institution. "The prescribed misapplication of funds occurs when funds are distributed under a written, printed, etc., record which misrepresents the true state of the document with the intent that bank officials, bank examiners or the Federal Deposit Insurance Cooperation will be deceived." Misapplication should be charged where there is a third party beneficiary.

(4) False entry -

An entry in books of a financial institution which is intentionally made to represent what is not true or does not exist, with intent either to deceive its officers or a bank examiner or to



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defraud the financial institution.

(5) Defraud -

To make a misrepresentation of an existing material fact, knowing it to be false intending another to rely and under circumstances in which such person, financial institution, corporation, etc., does rely on their damage. (Intent to defraud: means an intention to deceive another person, and to induce such other person, in reliance upon such deception, to assume, create, transfer, alter or terminate a right, obligation or power with reference to property.)

(6) Connected In Any Capacity -

Includes any person who has such a relationship to the institution that he/she could injure it by committing one or more of the criminal offenses set out in Title 18, USC, Sections 656 and 657.

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29-2.2.2 Section 20. Financial Institution Defined

"As used in this title, the term 'financial institution' means-

"(1) an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act);

"(2) a credit union with accounts insured by the National Credit Union Share Insurance Fund;

"(3) a Federal home loan bank or a member, as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422), of the Federal home loan bank system;

"(4) a Federal land bank, Federal intermediate credit bank, bank for cooperatives, production credit association, and Federal land bank association;

"(5) a System institution of the Farm Credit System, as defined in section 5.35(3) of the Farm Credit Act of 1971;

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"(6) a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act).

"(7) a Federal Reserve bank or a member bank of the Federal Reserve System;

"(8) an organization operating under section 25 or section 25(a) of the Federal Reserve Act; or

"(9) a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978)."

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29-2.2.3 Safety And Soundness of Any Depository Institution

As used in MIOG, Part I, Section 29-1 (5), the below terms are defined:

(1) Safety and Soundness - The terms "Safety" and "Soundness" are commonly used in laws governing financial institution regulation, and safety and soundness determinations fall within the special expertise of the federal financial institution regulatory agencies. The terms are generally used as a measure of an institution's financial health, the integrity of its operations, and its ability to remain financially viable. In determining whether an institution is operating in a safe and sound manner, regulators typically consider such factors as whether the institution has sufficient capital, good quality assets, competent management and broad supervision, strong earnings history and adequate liquidity. Financial institution regulators also consider whether the institution and its officers, directors, and subsidiaries and other affiliates operate in compliance with applicable laws and regulations or engage in acts or omissions that are contrary to prudent banking standards, present an abnormal risk of loss or harm to the institution, or are fraudulent or dishonest. Additionally, regulators assess the extent to which suspicious or criminal misconduct occurs within an institution with, or without, the institution's knowledge or complicity, even if it may not result in monetary loss or damage to the institution.

(2) Any Depository Institution - Any Depository

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Institution refers to any bank or savings association, foreign or domestic, insured or uninsured, operating in the United States.

EFFECTIVE: 05/26/94

29-3 JURISDICTION

(1) The Federal Bureau of Investigation (FBI) has investigative jurisdiction in all matters referred to above. On 11/5/90 in the Treasury, Postal Service and General Government Appropriations Act, Public Law 101-509, section 528(a), the United States Secret Service (USSS) was given concurrent jurisdiction in financial institution fraud matters. The concurrent jurisdiction was to expire with the authority of the Resolution Trust Corporation. The Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, amended Public Law 101-509 extending the concurrent jurisdiction of the USSS in financial institution fraud matters until 12/31/2004. The Act provided that USSS participation is subject to the supervision of the Attorney General (AG). It provided that USSS shall not initiate investigations independent of the supervision of the AG. On 3/1/91, the AG delegated his authority to accept the services and coordinate the activities of the USSS in financial institution fraud investigations to the Director of the FBI. On 3/22/91, the FBI and USSS Directors signed a letter of agreement establishing a protocol to most effectively and efficiently coordinate the jurisdiction responsibilities.

(2) The USSS, by way of Title 18, USC, Section 3056 (Powers, Authorities, and Duties of the USSS), has primary, investigative jurisdiction in Title 18, USC, Section 1007 (Federal Deposit Insurance Corporation Transaction) and Title 18, USC, Section 657 (Embezzlements and Thefts) and Sections 1006 (Federal Credit Institution Entries, Reports and Transactions), 1011 (Federal Land Bank Mortgage Transactions), 1013 (Farm Loan Bonds and Credit Bank Debentures), and 1014 (Fraud and False Statements) for violations of these statutes occurring within federal land banks, joint-stock land banks, and national farm loan association.

(3) Jurisdictional problems, if any, should be resolved in coordination with FBIHQ.

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EFFECTIVE: 11/21/96

29-4 POLICY

EFFECTIVE: 06/26/91

29-4.1 Investigative Policy

The FBI will investigate any allegation of a significant crime, within its authority, that will be prosecuted by the United States Attorney (USA) in the appropriate district. Given the significant priority that has been placed upon this crime problem by Congress, the Department of Justice, as well as the FBI, and in an effort to provide a Special Agent in Charge (SAC) the latitude necessary to appropriately address the crime problem in his/her division, all FIF matters are designated as priority case matters; regardless of the dollar loss involved. However, it will still be incumbent upon each SAC to ensure that the highest priority FIF matters within his/her division are being appropriately addressed. Consideration should be given to the implementation of a "fast track" program to handle lower dollar loss cases when justified by volume and the USA's prosecutive support.

EFFECTIVE: 06/30/93

29-4.2 Prosecutive Policy

EFFECTIVE: 06/26/91

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29-4.2.1 Bank Bribery

"The primary purposes of Title 18, USC, Section 215 are to ensure fair access to the resources and services provided by the federally protected financial community and to guard against the corrupt (i.e., the unlawful and wrongful use of one's position to procure some benefit for oneself or for another person, contrary to a fiduciary duty and the rights of others) dissipation of such resources and services. As a general rule, bank officials who misuse their position, thereby violate their private trust, would be the primary focus for prosecution. If state law is not adequate to cover the illegal bank bribery activity, careful consideration should be given to federal prosecution."

(1) Congress agreed in passing the revised Title 18, USC, Section 215, that the purpose of the statute was "to deter instances of corruption in the banking industry where efforts are made to undermine an employee's fiduciary duty to his or her employer."

(2) This statute makes both the offeror or acceptor of a bribe subject to prosecution and makes the offense a felony if the amount of the bribe exceeds \$100.

EFFECTIVE: 06/26/91

29-4.2.2 Misapplication/Embezzlement

The purpose of Title 18, USC, Sections 656 and 657 is to protect the assets of banks having a Federal relationship.

They usually relate to a particular class of individuals; i.e., officers, directors, agents, employees, or whoever is connected in any capacity with any of the designated institutions.

(1) Elements of Offenses

(a) The essential elements of the crime are as follows: (1) the accused must be of the designated class of persons (2) of a particular type of federally connected institution, and (3) he/she must have willfully misapplied moneys, funds or credits of such institution or entrusted to its custody (4) with the intent to injure or defraud the institution.

(b) The honest exercise of official discretion in

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good faith, without fraud, for the advantage, or supposed advantage of the association is not punishable; but if official action is taken, not in the honest exercise of discretion, in bad faith, for personal advantage and with fraudulent intent, it is punishable. It is generally necessary to allege that the moneys, funds or credits were converted to the use of the accused or to some party other than the bank.

(2) Examples

(a) Bad loans

May be the result of bad or inefficient management as opposed to criminal misapplication. A misapplication may occur by either granting an unsecured loan to a person who is known to be unable to financially repay or by granting a loan knowing that the collateral is inadequate and valueless. The bad loan is often connected with an interest of a bank officer or employee in the borrower. The bad loan may be a misapplication, however, without any showing that the bank officer personally benefited from the transaction, if it can be shown that the officer acted in reckless disregard of the bank's interest.

(b) Dummy Loans (Nominee Loans)

A misapplication occurs where an officer of a bank knowingly lends money to fictitious or financially insecure borrowers, where the loans are for the banker's own benefit and his/her interest in said loans is concealed from the bank. Circumstances where third party loans are in violation of the statute are as follows: (1) where the bank official knew the named debtor was either fictitious or wholly unaware that his/her name was being used; (2) where the bank official knew that the named debtor was financially incapable of repaying the loan, the proceeds of which he/she passed on to a third party; and (3) where the bank officials assured the named debtor, regardless of his/her financial capabilities, that they would look for repayment only to the third party, who actually received the loan proceeds.

(3) In addition to Title 18, USC, Sections 656 and 657, consideration should also be given to other statutes in connection with third-party loans for the benefit of bank officials. An officer of a national or FDIC insured bank can be prosecuted for receiving directly any benefit from a loan transaction under Title 18, USC, Section 215; and an officer of a savings and loan association or credit institution can be prosecuted under Title 18, USC, Section

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1006, for participation, directly or indirectly, in any loan. Further, if a banking regulation is violated, the participants in the scheme might possibly be prosecuted on the theory of a conspiracy to defraud the United States through a deliberate circumvention of a regulatory program. Finally, consideration may be given to a violation of Title 18, USC, Section 1014, if the borrower, even if financially responsible, falsifies the loan application as to the purpose of the loan. Proof that normal loan procedures are circumvented or facts were concealed from other bank officers or the board of directors would be indicative of fraudulent intent.

EFFECTIVE: 06/26/91

29-4.2.3 False Statements

(1) This section (Title 18, USC, Section 1014) covers knowingly making false statements or willfully overvaluing any property or security for the purpose of influencing in any way the action of the enumerated agencies and organizations.

(2) Elements of Offense

The elements of the offense are: (1) making a false statement or willfully overvaluing property or security knowing same to be false, (2) for the purpose of influencing in any way the action, (3) of the enumerated agencies and organizations. Actual damage is not an essential element of the offense.

EFFECTIVE: 06/26/91

29-4.2.4 False Entries

(1) Title 18, USC, Sections 1005 and 1006 prohibit false entries and are correlative to Title 18, USC, Sections 656 and 657. A violation of one of these statutes usually occurs in conjunction with Title 18, USC, Sections 656 and 657, since a false entry is often used to cover up embezzlement and misapplications.

(2) The aim of the statute is to give assurance that, upon inspection of a bank, public officers and others will find its books of account to be a reflection of the bank's true financial condition. If a note representing a sham transaction is entered on

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provision to prosecute check-kiting cases involving nonemployees.

(d) Previously enacted statutes were not clear if a bogus offshore bank was used to victimize an insured institution and the criminal conduct took place outside the U.S.

This statute, which is written in language similar to that of the mail fraud and the wire fraud statutes, was passed in an effort to correct these problems and to anticipate future activity. It should be noted that FIRREA has made this bank fraud statute a predicate offense under the Racketeering Influenced and Corrupt Organizations (RICO) statute.

EFFECTIVE: 06/26/91

29-4.2.6 Injunctions Against Fraud

(1) The purpose of this legislation is to provide an effective tool to prevent the continuation of a fraudulent scheme during the pendency of the investigation. As the Senate Judiciary Committee reported, "...the investigation of fraudulent schemes often takes months, if not years, before the case is ready for criminal prosecution, and innocent people continue to be victimized while the investigation is in progress. ...Even after indictment or the obtaining of a conviction, the perpetrators of fraudulent schemes continue to victimize the public."

(2) Those who wish to use the injunctive statute should take particular note that during the pendency of the injunction, but before the indictment is returned, the Federal Rules of Civil Procedure apply both to procedure and to discovery. Thus, defense counsel may be able to use the fact that the injunction is pending to seek discovery of materials which would not be discoverable under the Federal Rules of Criminal Procedure. Once the indictment is returned, the Federal Rules of Criminal Procedure apply. Presumably, where an injunction or other equitable relief occurs during the pendency of the grand jury investigation, the grand jury records would still be subject to Rule 6 of the Federal Rules of Criminal Procedure, but other materials, such as investigative notes and reports of interviews, may be discoverable under the civil discovery rules. Thus, in seeking a preindictment injunction, you may be opening the door for extensive discovery of your case.



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EFFECTIVE: 06/26/91

29-4.2.7 Kingpin Statute

The Continuing Financial Crime Enterprise Statute, Title 18, USC, Section 225, created a means to prosecute individuals for a series of violations of Title 18, USC, Sections 215, 656, 657, 1005, 1006, 1007, 1014, 1032, or 1344, or sections 1341 and 1343 affecting a financial institution. To use this statute, at least four people acting in concert must be involved in financial institution fraud with at least any one person receiving \$5 million or more in gross receipts during any 24-month period. Individuals prosecuted face a minimum sentence of ten years and can be imprisoned for life. Under this statute, individuals can be fined up to \$10 million and corporations can be fined up to \$20 million.

EFFECTIVE: 06/26/91

29-4.2.8 Concealment of Assets

The aim of Title 18, USC, Section 1032 (Concealment of Assets from Conservator, Receiver, or Liquidating Agent of Financial Institution) is to make it a criminal act to hide or attempt to hide assets from the Federal Deposit Insurance Corporation, or any conservator appointed by the Comptroller of the Currency, the Director of the Office of Thrift Supervision, or the National Credit Union Administration Board.

EFFECTIVE: 11/21/96

29-4.2.9 Obstructing an Examination

This statute makes it a criminal act to obstruct or attempt to obstruct an examination of a financial institution by any Federal agency responsible for conducting such an examination.

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EFFECTIVE: 06/26/91

29-5 INVESTIGATIVE PROCEDURES

(1) Deleted

(2) Complaints of Section 1014 violations (false statements) and all matters involving losses or exposure to the financial institution of less than \$25,000 should be discussed with the appropriate U.S. Attorney prior to conducting any investigation so as to determine whether the U.S. Attorney will prosecute should a violation be proven.

(3) Confer with the appropriate official of the bank or institution unless he/she is a subject under investigation or with the receiver of the suspended bank or institution.

(4) Obtain evidence of Bureau's jurisdiction, such as national bank charter, date of issuance; Federal Reserve System certificate of membership, date of issuance and number; Federal Deposit Insurance Corporation certificate number and date of issuance; or credit union charter.

(5) Obtain history and description of subject, including information set forth in the personal records of the subject at the bank or institution under investigation. FIRREA amended the Fair Credit Reporting Act so that a credit report can now be obtained by a Federal grand jury subpoena.

(6) On cases involving insiders, the supervisory agency should be contacted. Officers of financial institutions are required to periodically submit personal financial statements. They sign off on the statement of condition (which could give Title 18, USC, Section 1001 violations), and examiners' workpapers (line, loan, or tab sheets) may contain evidentiary statements made to regulators by officers of the financial institution.

(7) Prior to obtaining SAC authority for a polygraph examination in all Financial Institution Fraud (FIF) cases, the USA should be contacted to ensure that USA will consider prosecution should a subject be identified. (See MIOG, Part II, 13-22.3(4).)

(8) Deleted

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EFFECTIVE: 06/30/93

29-6 REPORTING RULES

FIRREA requires the Attorney General to report annually to Congress on enforcement actions, including data relating to investigations, prosecutions, and convictions or other dispositions. The FD-467 captures the information requested by Congress relating to Suspicious Activity Reports (SAR).

EFFECTIVE: 11/21/96

29-6.1 Receipt of Suspicious Activity Report (SAR)

(1) An FD-467 should be prepared by the office of origin upon the opening of all 29 classification cases and entered into Automated Case Support (ACS) by rotor personnel. In all instances where an SAR is received, whether a case is opened or not, an FD-467 must be prepared. When multiple SARs are received relating to the same case, an FD-467 must be completed for each.

(2) The FD-467 may be handwritten and is to be maintained in the case file or with the SAR if a case is not opened. The FD-467 should NOT be submitted to FBIHQ.

(3) For instructions on completing the FD-467, see the Correspondence Guide - Field, Section 3-54.3.

(4) Upon the receipt of an SAR, notification must be made to the referring financial institution (if applicable, i.e., the institution is not the subject of the case), the supervisory agency for the institution, and the U.S. Attorney's Office of the action taken on the SAR. Notification may be made in the form of a letter, a monthly report, or documented telephone conversation. Computerized reports are available from the FD-467 application to assist in this notification process.

(5) SARs will not be mailed to individual field offices; they are filed at the Internal Revenue Service's Computer Center

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located in Detroit, Michigan. In order to access the SAR Database, the FBI has developed an application that disseminates SARs to each field office based on the ZIP Code where the activity occurred. Effective 5/20/96, each field office can access the FBI SAR application through the Financial Institution Fraud application within ACS.

(6) Each field office should routinely ensure that the number and types of violations being reported in the SAR application are consistent with those previously reported using the Criminal Referral Form.

EFFECTIVE: 11/21/96

29-6.1.1 Supervisory Agencies

The following is a list of the supervisory agencies:

- (1) Federal Deposit Insurance Corporation (FDIC)
  - (a) any state nonmember insured bank (except a District bank)
  - (b) foreign bank having an insured branch
- (2) Office of Comptroller of Currency (OCC)
  - (a) any national banking association
  - (b) District bank
  - (c) Federal branch
  - (d) agency of a foreign bank
- (3) Federal Reserve Bank (FRB)
  - (a) any state member-insured bank (except a District bank)
  - (b) any bank holding company and any subsidiary of a bank holding company (other than a bank)

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(c) any agency or commercial lending company other than a Federal agency

(d) any foreign bank which does not operate an insured branch

(e) supervisory or regulatory proceeding arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978, including such proceeding under the Depository Institutions Supervisory Act

(4) Office of Thrift Supervision (OTS)

(a) any savings association

(b) any savings and loan holding company

(5) National Credit Union Administration

EFFECTIVE: 02/12/92

29-6.1.2 Definitions

(1) "State bank" - incorporated under the laws of any state

(2) "District bank" - any state bank operation under the Code of Law of the District of Columbia

(3) "member" - means any institution which has subscribed for the stock of a Federal Home Loan Bank

(4) "national bank" - any national charter bank, i.e., any bank with the word "national" or "N.A." in its title

EFFECTIVE: 02/12/92

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29-6.2 Field Office Reporting Requirements to FBIHQ

(1) FBIHQ should be notified by teletype within five working days upon the opening, upon any major action, and upon the completion of any case that may have a significant impact on Bureau policy or receives wide media coverage. (Airtel, LHMs, and prosecutive reports are no longer required to be sent to FBIHQ.)

(2) Submit R-84 (Final Disposition) and FD-515 (Statistical Accomplishment) forms.

EFFECTIVE: 07/19/95

29-6.3 Deleted

EFFECTIVE: 02/12/92

29-6.4 Deleted

EFFECTIVE: 12/10/91

29-6.5 Field Office Reporting Requirements To Federal Financial Institution Regulatory Agencies Relative To Section 1542 of the Housing And Community Development Act of 1992 (See also MAOP, Part II, 10-9 (24)

(1) Having obtained an opinion from an Assistant United States Attorney (AUSA) that disclosure is required, a Letterhead Memorandum (LHM) (one copy) setting forth the facts which raise significant concern regarding the safety and soundness of any depository institution doing business in the U.S. (see MIOG, Part I, 29-1 (5)) shall be disseminated to the appropriate federal regulatory agency, with the original and three copies sent to the Financial Institution Fraud Unit, Room 3849, FBIHQ. Exceptions to this disclosure requirement are:

(a) Information obtained by the Central Intelligence Agency (CIA) shall be disclosed directly to the Attorney General (AG)

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or the Secretary of the Treasury (SOT). After consultation, said information will then be disclosed by the CIA, AG, or SOT to the appropriate regulators;

(b) Special reporting procedures are to be administered BY THE AG OR SOT where required disclosure may jeopardize a pending civil investigation or litigation, or a pending criminal investigation or prosecution, may result in serious bodily injury or death to a Government employee, informant, witness or their respective families, or may disclose sensitive investigative techniques and methods; and

(c) Legislation does not require disclosure of information received in connection with a pending grand jury investigation or information whose disclosure is otherwise prohibited by law.

(2) If an exception is requested, the United States Attorney's Office will handle the appropriate reporting to the DOJ. Each field office shall submit an original LHM and three copies to FBIHQ summarizing the facts which justify the exception.

EFFECTIVE: 05/26/94

29-7 FINANCIAL INSTITUTION FRAUD SUBCLASSIFICATIONS (See MIOG, Part I, 29-5(2) and MAOP, Part II, 3-1.1 & 3-1.2.)

The subclassifications of Financial Institution Fraud cases capture statistical data to include Direct Agent Work Years (DAWY) expenditures and accomplishments. Listed below are the applicable subclassifications:

29A Financial Institution Fraud - Loss or losses contributing to the failure of a federally insured BANK.

29B Financial Institution Fraud - Loss or loss exposure of \$100,000 or more involving a federally insured BANK.

29C Financial Institution Fraud - Loss or loss exposure of \$25,000 to \$99,999 involving a federally insured BANK.

29D Financial Institution Fraud - Loss or losses

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contributing to the failure of a federally insured SAVINGS ASSOCIATION.

29E Financial Institution Fraud - Loss or loss exposure of \$100,000 or more involving a federally insured SAVINGS ASSOCIATION.

29F Financial Institution Fraud - Loss or loss exposure of \$25,000 to \$99,999 involving a federally insured SAVINGS ASSOCIATION.

29G Financial Institution Fraud - Loss or losses contributing to the failure of a federally insured CREDIT UNION.

29H Financial Institution Fraud - Loss or loss exposure of \$100,000 or more involving a federally insured CREDIT UNION.

29I Financial Institution Fraud - Loss or loss exposure of \$25,000 to \$99,999 involving a federally insured CREDIT UNION.

29J Financial Institution Fraud - Loss or loss exposure of under \$25,000 involving a federally insured financial institution and HANDLED VIA FAST TRACK.

29K Financial Institution Fraud - Loss or loss exposure of under \$25,000 involving a federally insured financial institution and not HANDLED VIA FAST TRACK.

EFFECTIVE: 10/18/95



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SECTION 31. WHITE SLAVE TRAFFIC ACT

31-1 STATUTES

Title 18, USC, Sections 2421-2424, effective 2/6/78;  
amended 11/7/86 by Child Sexual Abuse and Pornography Act of 1986,  
Public Law 99-628.

EFFECTIVE: 06/18/87

31-1.1 Section 2421. Transportation Generally

"Whoever knowingly transports any individual in interstate or foreign commerce, or in any Territory or Possession of the United States, with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title or imprisoned not more than five years, or both."

EFFECTIVE: 06/18/87

31-1.1.1 Deleted

EFFECTIVE: 06/18/87

31-1.2 Section 2422. Coercion and Enticement

"Whoever knowingly persuades, induces, entices, or coerces any individual to travel in interstate or foreign commerce, or in any Territory or Possession of the United States, to engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title or imprisoned not more than five years, or both."

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EFFECTIVE: 06/18/87

| 31-1.2.1 | Deleted |

EFFECTIVE: 06/18/87

31-1.3 Section 2423. Transportation of Minors

"Whoever knowingly transports any individual under the age of 18 years in interstate or foreign commerce, or in any Territory or Possession of the United States, with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title or imprisoned not more than ten years, or both."

EFFECTIVE: 06/18/87

| 31-1.3.1 | Deleted |

EFFECTIVE: 06/18/87

31-1.4 Section 2424. Filing Factual Statement About  
Alien Individual

"(a) Whoever keeps, maintains, controls, supports, or harbors in any house or place for the purpose of prostitution, or for any other immoral purpose, any alien individual within three years after that individual has entered the United States from any country, party to the arrangement adopted July 25, 1902, for the suppression of the white-slave traffic, shall file with the Commissioner of Immigration and Naturalization a statement in writing setting forth the name of such alien individual, the place at which that individual is kept, and all facts as to the date of that individual's entry into the United States, the port through which that individual entered, that individual's age, nationality, and parentage, and concerning that individual's procurement to come to this country within the knowledge of such person; and 'Whoever fails within thirty days after commencing to keep, maintain, control, support, or harbor in any house or place

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for the purpose of prostitution, or for any other immoral purpose, any alien individual within three years after that individual has entered the United States from any country, party to the said arrangement for the suppression of the white-slave traffic, to file such statement concerning such alien individual with the Commissioner of Immigration and Naturalization; or 'Whoever knowingly and willfully states falsely or fails to disclose in such statement any fact within that person's knowledge or belief with reference to the age, nationality, or parentage of any such alien individual, or concerning that individual's procurement to come to this country--' Shall be fined not more than \$2,000 or imprisoned not more than two years or both.

"(b) In any prosecution brought under this section, if it appears that any such statement required is not on file in the office of the Commissioner of Immigration and Naturalization, the person whose duty it is to file such statement shall be presumed to have failed to file said statement, unless such person or persons shall prove otherwise. No person shall be excused from furnishing the statement, as required by this section on the ground or for the reason that the statement so required by that person, or the information therein contained, might tend to criminate that person or subject that person to a penalty or forfeiture, but no information contained in the statement or any evidence which is directly or indirectly derived from such information may be used against any person making such statement in any criminal case, except a prosecution for perjury, giving a false statement or otherwise failing to comply with this section."

EFFECTIVE: 08/23/88

31-1.4.1 Deleted

EFFECTIVE: 08/23/88

31-2 DELETED

EFFECTIVE: 08/23/88

31-3 POLICY

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EFFECTIVE: 08/23/88

31-3.1 Presenting Facts to USAs

Agents should understand that the duty of interpreting departmental policy involving prosecution of WSTA cases rests solely with USAs. It is not desired that Agents carry on any investigative activity which could in any way be considered unnecessary or ineffective. Agents should bear in mind that the Department's instructions to the USAs do not change the Bureau's position in any manner with regard to the necessity for thoroughly handling all WSTA cases. These instructions increase our responsibility of developing and bringing to the attention of the USA all facts which indicate that prosecution is warranted.

EFFECTIVE: 08/23/88

31-3.1.1 Sexual Exploitation of Children

Particular attention should be paid to any situation or report that a pedophile may have transported a minor in interstate or foreign commerce to engage in any sexual activity for which any person can be charged with a criminal offense. These amendments to the Mann Act (Public Law 99-628, 11/7/86) provide the Bureau with excellent criminal statutes to investigate those individuals who take children across state lines or out of the country and then sexually abuse them. Violations of Title 18, USC, Sections 2421, 2422 and 2423 are to be investigated by the FBI.

EFFECTIVE: 08/23/88

31-3.2 Emphasis on Organized Commercialized Prostitution

Direct particular attention to organized commercialized prostitution. Where it is common knowledge that prostitution is flourishing unmolested in a city, it is incumbent upon the FBI to make an appropriate preliminary investigation in that community with a view to determining whether those engaged in the prostitution activities are violating the WSTA. (See 31-5.)

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EFFECTIVE: 08/23/88

31-4 INVESTIGATIVE PROCEDURES

(1) The primary step in any WSTA investigation is to secure a signed statement from the victim, showing the interstate transportation for prostitution or any sexual activity for which any person can be charged with a criminal offense. In prostitution cases care should be taken not to create any basis for a charge of intimidation or inducement in obtaining statements from the victim, since the courts have held that the individual may be found guilty of conspiracy to violate the act although the conspiracy involved that person's own transportation.

(2) Secure all possible evidence to corroborate the statement of the victim by interviewing that individual's relatives and associates and other persons in a position to give pertinent information.

(3) Secure all possible documentary evidence to corroborate the statement of the victim. [REDACTED]

b2/b7E

(4) Interviews with victims of this type of case or with informants or others involved in alleged law violations are at all times to be conducted in a completely businesslike manner. Precautions should be taken to prevent the interviewing employee becoming involved in a compromising situation. Where such interviews are to be conducted in hotel rooms or other places out of the presence of witnesses, every effort should be made to have present a second Bureau employee.

EFFECTIVE: 08/23/88

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31-4.1 Essential Facts to Obtain

As to persons involved:

(1) The names (with aliases), descriptions, brief personal histories, reputation, marital status, and identification records of subject and victim.

(2) Previous acquaintances and attendant relations between subject and victim.

(3) The facts as to the places of residence of victim when that individual is an alien, as well as the probable immoral purposes connected with that individual's immigration; and the place of birth, citizenship, naturalization status, date of last entry into the U.S., port of entry, and means of travel to the U.S. of any subject or victim who might be an alien.

EFFECTIVE: 06/18/87

31-4.2 As to Transportation in Interstate and Foreign Commerce:

(1)

(2)

(3)

(4)

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EFFECTIVE: 06/18/87

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31-4.3 As to Purposes Involved in the Transportation:

(1) [REDACTED]

(2) [REDACTED]

(3) [REDACTED]

(4) [REDACTED]

(5) [REDACTED]

b2/b7E

EFFECTIVE: 06/18/87

31-4.4 As to Circumstances of Aggravation or Mitigation:

(1) The facts as to whether the victim is of tender age (under 18 years old) or previously chaste; whether the victim is a married woman, with young children, who has been induced to leave her husband.

(2) The facts as to the motives of the complainant, the pendency of divorce proceedings, the probability of state prosecution, the indication of any blackmail scheme, and the attitude of victim as possible witness.

(3) The indication that the victim voluntarily, and without any overreaching, consented to the immoral agreement.

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31-5 PRELIMINARY INVESTIGATION IN CITIES WHERE PROSTITUTION IS  
KNOWN TO BE FLOURISHING UNMOLESTED

(1) Determine where the principal houses of prostitution  
are located and who operates them.

(2)

(3)

(4)

(5)

(6)

b2/b7E

EFFECTIVE: 06/18/87

31-6 INTERSTATE TRANSPORTATION OF VENEREALLY INFECTED PERSONS

Title 42, USC, Section 264 empowers the Surgeon General, with the approval of the Secretary of Health and Human Services, to make and enforce such regulations as in Surgeon General's judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the states or possessions, or from one state or possession into any other state or possession. Pursuant to this authority, the Public Health Service has promulgated regulations which are set forth in the Federal Register, Volume 12, #97, dated 5-16-47, page 3187, captioned "Public Health,"



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regulation 12.2 defines the communicable diseases as anthrax, chancroid, cholera, dengue, diphtheria, granuloma, inguinale, infectious encephalitis, favus, gonorrhea, lymphogranuloma venereum, meningococcus meningitis, plague, poliomyelitis, psittacosis, ringworm of the scalp, scarlet fever, streptococcic sore throat, smallpox, syphilis, trachoma, tuberculosis, typhoid fever, typhus, and yellow fever. Regulation 12.11 restricts the travel of such infected persons. This regulation states that a person who has a communicable disease in the communicable period shall not travel from one state or possession to another without a permit from the health officer of the state, possession, or locality of destination, if such permit is required under the law applicable to the place of destination. Stopovers other than those necessary for transportation connections shall be considered as places of destination. Violations of the various regulations are subject to criminal punishment according to the provisions of Title 42, USC, Section 271, which provides that anyone who violates the regulations is punishable by fine of not more than \$1,000 or imprisonment of not more than one year, or both. These regulations should be considered as possible assistance in connection with the development of prosecution of violations of the WSTA, especially in dealing with subjects and victims with contagious disease who have violated the terms of these regulations and who, on interview, have been found to be uncooperative and hostile.

EFFECTIVE: 02/16/89

31-7. REFERRAL OF COMPLAINTS TO HHS OR USA

When original complaints are received dealing solely with interstate transportation of persons infected with venereal and other contagious diseases, no investigation should be conducted but the matter should be referred to the nearest office of the U.S. Public Health Service of the Department of Health and Human Services (HHS) for attention. However, if evidence of a violation of any interstate quarantine regulation is obtained during the course of investigation being conducted by the Bureau and such evidence involves the subjects or victims of the investigation, the facts should be referred to the USA for his/her decision relative to prosecution. If prosecution is authorized, the necessary investigation should be conducted by the Bureau to substantiate the violation.

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31-8 POSSIBLE APPLICATION OF INVOLUNTARY SERVITUDE AND SLAVERY  
STATUTES

When conducting WSTA investigations, Agents should be alert to facts which indicate that the victim(s) were held or sold into conditions of involuntary servitude and slavery through use of force, threat of force, or coercion. Such situations may constitute violations of the Involuntary Servitude and Slavery and related statutes. Full details of these laws, as well as FBI policy and procedure, are set forth in Part I, Section 50 of this manual.

EFFECTIVE: 02/16/89

31-9 REPORTING PROCEDURES

Each field office should advise FBIHQ, Criminal Investigative Division (CID), Violent Crimes Unit (VCU), whenever a WSTA investigation is opened. Thereafter, every six months, the Office of Origin (OO) should submit a summary Letterhead Memorandum (LHM) providing details of the investigation conducted. A summary LHM should also be submitted when the case is closed.

EFFECTIVE: 09/22/93

31-10 VENUE

Venue lies in any district from, through, or into which transportation occurs or in the District of Columbia or territory or possession of the United States wherein such transportation occurs. (Title 18, USC, Section 3237)

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31-11 CHARACTER - WHITE SLAVE TRAFFIC ACT

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SECTION 32. IDENTIFICATION (FINGERPRINT MATTERS)

32-1 IDENTIFICATION (FINGERPRINT MATTERS)

Information concerning the above classification is set forth in MIOG: Part II, Sections 14 and 15.

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SECTION 33. UNIFORM CRIME REPORTING (UCR) PROGRAM

33-1 BACKGROUND

(1) Uniform Crime Reports provide a periodic nationwide assessment of crime not available elsewhere in the criminal justice system. Participation on the part of state and local law enforcement agencies, although voluntary, has resulted in reporting coverage of approximately 96 percent of the total United States population. The UCR Program was developed by the International Association of Chiefs of Police (IACP). This organization continues to serve in an advisory capacity to the UCR Program through its Committee on Uniform Crime Records. At the request of the IACP, the FBI assumed operational responsibilities for this program on 9/1/30 under an Act of Congress approved 6/11/30.

(2) In June 1966, the National Sheriffs' Association (NSA) established a committee on UCR to serve in an advisory capacity to the NSA membership and the national UCR Program.

(3) Participation in the UCR has historically been through a direct relationship between individual law enforcement agencies and the UCR Program. State UCR programs have been developed with the cooperation of the FBI. There are 44 such programs, many of which have mandatory reporting requirements for local law enforcement. In those states having state UCR programs, local crime data is submitted directly to a state agency and required information forwarded to the national program as a by-product of that state's efforts.

(4) While the current UCR system will remain the principle reporting program for years to come, a new, enhanced program is being introduced around the country on a limited basis. Known as the National Incident-Based Reporting System (NIBRS), the new program is designed to collect data on an incident-by-incident basis (incident-based reporting) within an expanded set of crime categories. Details about the offense, offender, victim, property, and arrestee will provide substantial information on crimes reported to police. The enhanced UCR is designed for automated systems exclusively and will include a quality assurance program.

(5) To function in an advisory capacity concerning UCR policy and provide suggestions on uses of the data collected under

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NIBRS, a Uniform Crime Reporting Data Providers Advisory Policy Board (APB) was established in 1988. Its charter has since expired. With the formation of the Criminal Justice Information Services (CJIS) Division, of which the UCR Program is a part, a CJIS Advisory Board has been implemented. The CJIS Advisory Board will advise the FBI on policy issues concerning UCR, as well as the NCIC Program and Identification Services.

(6) The Anti-Drug Abuse Act of 1988 contained a separate Act which requires federal law enforcement participation in the UCR Program. Entitled the "Federal Uniform Crime Reporting Act of 1988," it directs the Attorney General of the United States to collect crime statistics which comprise the national UCR Program from all federal agencies "that routinely investigate crime activities, including the Department of Defense." The FBI and other federal law enforcement agencies will find it necessary to enhance their data collection methods and reporting functions in order to fulfill the Act's mandate. The FBI will serve as the lead agency and will be responsible for coordinating federal implementation of the program and ensuring uniformity and implementation of the program and ensuring uniformity and data quality. The FBI's UCR Program will administer the program. Plans to implement the redesigned UCR Program at the federal level are underway. Data produced as a result of the Act should be of tremendous benefit to all levels of law enforcement, to the Executive and Legislative Branches, and to many other interests.

(7) In response to a growing concern about hate crimes, Congress, on April 23, 1990, enacted the "Hate Crime Statistics Act of 1990." The Act requires the Attorney General to establish guidelines and collect, as part of the UCR Program, data "about crimes that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity, including where appropriate the crimes of murder, nonnegligent manslaughter; forcible rape; aggravated assault, simple assault, intimidation; arson; and destruction, damage or vandalism of property." The FBI's UCR Program was assigned the task of developing the procedures for, and managing the implementation of, the collection of hate crime data. Although the Hate Crime Statistics Act mandated collection for only five years, the FBI considers the statistics collection to be a permanent addition to the UCR Program. The data collection captures information about the type of bias serving as the motivating factor, the nature of the offense, and various descriptors pertaining to both victims and offenders. Hate crimes are not separate distinct offenses, but rather traditional crimes motivated by the offender's bias. It was, therefore, not necessary to create whole new crime categories. Hate crime data could be collected by merely capturing additional information about

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crimes already being reported to UCR. Bias motivations reported are those specifically addressed by the enabling Act, i.e., prejudice against a race, religion, sexual orientation, or ethnic group. Because of the difficulty of ascertaining the offender's subjective motivation, bias is reported when the law enforcement investigation reveals sufficient objective facts to lead a reasonable and prudent person to conclude that the offender's actions were motivated, in whole or in part, by bias. For counting purposes, one offense is counted for each victim of a "crime against person." One offense is counted for each distinct operation of "crime against property," regardless of the number of victims. Notification of hate crime incidents is received by the FBI's UCR Program from city, county, and state law enforcement agencies through various types of media ranging from paper reporting forms to floppy disks and magnetic tapes. Individual reports are submitted for each hate crime incident coming to the attention of law enforcement agencies participating in the UCR Program. Quarterly reports are used to advise that no hate crimes occurred within the reporting jurisdiction. Reports are sent through state-level UCR Programs or directly to the FBI from agencies in states without Programs or whose state Programs have not begun collection.

EFFECTIVE: 07/18/95

33-2 PUBLICATION AND DISTRIBUTION OF CRIME DATA

(1) The UCR publication "Crime in the United States" is published annually, with preliminary Crime Index data being published on a semiannual basis. The term, Crime Index, is utilized in Uniform Crime Reports to include the crimes of murder and nonnegligent manslaughter, forcible rape, robbery, aggravated assault, burglary-breaking and entering, larceny-theft, motor vehicle theft and arson. The Crime Index is widely cited in newspapers and periodicals and is used as a "yardstick" to measure the level of criminality in our society. Information presented in the annual publication entitled "Crime in the United States" gives the police executive the ability to measure crime in a particular locale and the ability to assess the degrees of success of the department in coping with the crime problem. Principal features of Uniform Crime Reports are, of course, listed in the Table of Contents of that publication. Also, a publications list is contained in one of the appendices of the book. The semiannual releases contain trend information, which enables the reader to compare the crime situation of one reporting period to that in a

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preceding period. Additionally, limited historical information is presented, which illustrates current levels of reported crime to those in previous years. Data is also presented setting forth the number of Crime Index offenses reported by individual cities having 100,000 or more inhabitants.

(2) A publication entitled "Law Enforcement Officers Killed and Assaulted" produced by the UCR Program on an annual basis addresses the following three topics: first, the felonious and accidental line-of-duty deaths of federal, state, and local law enforcement officers; second, nonfatal assaults on sworn local, county, and state law enforcement officers; and finally, nonfatal assaults on officers of certain federal agencies employing the majority of personnel responsible for protecting government officials, enforcing and investigating violations of federal laws, and prosecuting and incarcerating offenders. The publication is designed to aid in developing and revising officer training programs; selecting and assigning personnel; designing and adopting new equipment; and supporting budgetary requests aimed at safeguarding law enforcement officers. Information on the felonious, line-of-duty killings of federal, state and local law enforcement officers is disseminated in semiannual press releases.

In connection with its Law Enforcement Officers Killed and Assaulted Program, the national UCR staff published a special report on officer homicides in September 1992. With the assistance of the FBI's Behavioral Science Unit and an outside consultant, the staff developed a protocol from which to interview offenders convicted of having killed law enforcement officers. The data collected as a result of the interviews are published in the study, "Killed in the Line of Duty," which examined extensively 51 distinct cases involving the felonious killings of 54 law enforcement officers by 50 offenders to attempt a better understanding of the nature of these fatal attacks.

A follow-up study entitled "Violence Against Law Enforcement Officers" is underway. It will examine selected incidents of serious assault by cutting instrument or firearm where the victim officer survived the incident.

(3) Information about the National Incident-Based Reporting System (NIBRS) is contained in four publications. "Volume 1: Data Collection Guidelines" is for the use of state and local UCR Program personnel (i.e., administrators, training instructors, report analysts, coders, data entry clerks, etc.) who are responsible for collecting and recording NIBRS crime data for submission to the FBI. It contains a system overview and descriptions of the offenses,



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offense codes, reports, data elements, and data values used in the system. "Volume 2: Data Submission Specifications" is for the use of state and local systems personnel (i.e., computer programmers, analysts, etc.) who are responsible for preparing magnetic tapes for submission to the FBI. It contains the tape data submission instructions, tape layouts, error-handling procedures, designations of mandatory and optional data elements, and data element edits that must be followed in submitting magnetic tapes to the FBI for NIBRS reporting purposes. "Volume 3: Approaches to Implementing an Incident-Based Reporting (IBR) System" is for the use of state and local systems personnel (i.e., computer programmers, analysts, etc.) who are responsible for developing a state or local IBR system which will meet NIBRS' reporting requirements. It contains suggested approaches to developing an IBR system, including a model incident report, standard data entry guide, data entry screens, and software design suggestions. "Volume 4: Error Message Manual" contains designations of mandatory and optional data elements, data element edits, and error messages. A new NIBRS edition of the UCR Handbook has also been published to assist law enforcement agency data contributors implementing NIBRS within their departments. This document is geared toward familiarizing local and state law enforcement personnel with the definitions, policies, and procedures of NIBRS.

(4) Guidelines for reporting hate crime are contained in two documents, the "Hate Crime Data Collection Guidelines" and the "Training Guide for Hate Crime Data Collection." The FBI also publishes annual statistical reports pertaining to hate crime. Other topical studies highlighting unique aspects of hate crime are planned. The first UCR hate crime data was limited 1991 figures issued in a press release April 4, 1991. The first annual publication on hate crime was entitled "Hate Crime Statistics - 1992."

(5) Beginning with the 1988 edition, the publication entitled "Bomb Summary" is being issued by the Bomb Data Center, Laboratory Division. The "Bomb Summary" contains statistics relative to explosive and incendiary bombings in the United States.

(6) UCR publications are mailed to the contributors of UCR data, FBI field divisions and resident agencies, and state-level UCR Programs. No mailing list is maintained for other data users. Copies of the "Law Enforcement Officers Killed and Assaulted" book and preliminary Semiannual Uniform Crime Reports are distributed free of charge and may be requested directly from the UCR Program, Programs Support Section, FBI, Gallery Row Building, Washington, D.C. 20535. While "Crime in the United States" is furnished free of charge upon

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request of government and law enforcement agencies, other requesters must purchase the book from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(7) For requesters other than law enforcement or other government agencies, the UCR Program, Programs Support Section, FBIHQ, charges a fee for unpublished or out-of-print data. Any requests for such information should be referred to the UCR Program, Programs Support Section, FBI, Gallery Row Building, for handling.

EFFECTIVE: 07/18/95

33-3 RETENTION OF UCR PUBLICATIONS

Every FBI field office should retain Uniform Crime Reports for the last two years in order to respond to questions concerning crime figures from the general public. Policy matters, however, should be referred to FBIHQ. The latest preliminary crime release should be maintained so it will be convenient for reference. Each resident agency of a field office should maintain copies of Uniform Crime Reports and semiannual releases as issued. Nothing contained in Uniform Crime Reports publications is confidential; and after the official release, news agencies are welcome to the information.

EFFECTIVE: 05/26/89

33-4 OTHER PUBLICATIONS OF ASSISTANCE TO LAW ENFORCEMENT

All forms, guides, manuals, handbooks, and booklets utilized in the UCR Program are provided free of charge. Many state UCR programs have designed individualized reporting forms and handbooks; and these are also provided by the states free of charge to law enforcement agencies. The National UCR Handbook provides necessary instructions on how to prepare the various report forms utilized in UCR. The Manual of Law Enforcement Records provides outlines for basic police records systems, and sample records forms. Each field division should maintain copies of these two publications.

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EFFECTIVE: 05/26/89

33-5 FBIHQ REQUESTED CONTACT WITH DELINQUENT CONTRIBUTORS

If FBIHQ requests that a law enforcement agency be contacted concerning a delinquent report and the agency explains the form was mailed when due, the agency should be requested to mail a duplicate of the report to FBIHQ, Attention: UCR Program, Programs Support Section.

EFFECTIVE: 08/18/94

33-6 FBIHQ REQUESTED CONTACT WITH NONCONTRIBUTORS

FBIHQ will normally only request that field offices contact noncontributors in those states not having state UCR programs. In the event such contact is required, the following should be done:

(1) Review of the "UCR Handbook" with particular emphasis on the section covering the preparation of the monthly Return A (the monthly Return A is the basic reporting form utilized in this program).

(2) Review this section (Section 33 of MIOG) in order to be conversant relative to UCR matters.

(3) Discuss with the contacted agency the various types of records maintained by the agency, mindful that the monthly Return A should be prepared from a record of each offense reported or known to police as distinguished from a mere record of persons arrested for crimes.

(4) If the records of the contacted agency appear to be inadequate or incapable of producing information for Uniform Crime Reports, offer the "Register of Incidents/Offenses" (daily log), which is illustrated in the "UCR Handbook."

(5) Assist the contacted agency in the actual preparation of the Return A for the previous month. Once this report is completed and signed by the Chief or other department head, it should be mailed to FBIHQ, Attention: UCR Program, Programs Support Section.

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EFFECTIVE: 12/02/94

33-7 OBTAINING UCR SUPPLIES

Supplies necessary for the preparation of Uniform Crime Reports may be requested by means of the UCR Supply Request (Form 1-722) or by merely placing a notation on the monthly crime report of the contributing agency.

EFFECTIVE: 12/02/94

33-8 FIELD OFFICES' RESPONSIBILITY TO UCR SPECIAL PROGRAMS

EFFECTIVE: 05/26/89

33-8.1 Police Killings

Each field division is to advise FBIHQ by teletype of the line-of-duty killing of any police officer. Further instructions are set forth in Part I, Section 184 of this manual.

EFFECTIVE: 05/26/89